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# M. T. CICERONIS

## ORATIO PRO

# L. MURENA.

London: CAMBRIDGE WAREHOUSE,
17, PATERNOSTER ROW.

Cambridge: DEIGHTON, BELL, AND CO.

# M. T. CICERONIS

## ORATIO PRO

# L. MURENA.

WITH ENGLISH INTRODUCTION AND NOTES

BY

W. E. HEITLAND, M.A.

FELLOW AND CLASSICAL LECTURER OF ST JOHN'S COLLEGE, CAMBRIDGE.

hinc rapti fasces pretio, sectorque favoris
ipse sui populus, letalisque ambitus urbi
annua venali referens certamina campo.
LUCAN, *Phars.* I. 178—180.

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# TO THE READER.

THIS book is sent forth as the best attempt at an Edition of the Pro Murena that with short time and pressing College engagements I can make. Being familiar with the speech from frequent reading, and having collected matter upon many passages myself, I have taken the best authorities as guides in the writing of notes, and striven to give brief but full acknowledgment for what I have borrowed from them. At the same time I have done more than borrow; the Introduction, with the exception of B. § i, is all my own work; and in the notes, where a passage seemed to me to require fuller explanation than had been already offered, I have tried to supply the needful matter, while on the other hand I have freely rejected such notes of former Editors as appeared superfluous. It is to be understood that I address myself to University students and to the head forms of Schools.

The speech though fully commented on in Germany has been so neglected in England, that I venture to hope for much indulgence from any critical scholar who may glance into my notes. If I have in any degree fulfilled the duty of a rough pioneer, it is as much as I can look for.

The works principally used in preparing the notes have been—

A. *Editions of the Speech.*

1. Matthiae, 1831.
2. A. W. Zumpt, 1859.
3. Tischer, 1861.
4. Halm, Ed. 2, 1872.
5. Freund's präparationen zu Cicero's werken (pt. 5).

B. *Grammars, Lexicons, &c.*

6. Madvig's Latin grammar, Eng. tr., ed. 4.
7. Nizolii lexicon Ciceronianum.
8. Ernesti's clavis Ciceroniana.

C. *Reference Books.*

9. Madvig's de Finibus, new ed.
10. Mayor's Second Philippic and Juvenal.
11. Halm and Wilkins' Catilinarian speeches.
12. Ramsay's pro Cluentio.
13. C. T. Zumpt's Annales veterum regnorum et populorum.
14. Mommsen's History of Rome, Eng. tr.
15. Huschke's iurisprudentiae anteiustinianae quae supersunt.
16. Lord Mackenzie's Roman Law.
17. Forsyth's Life of Cicero.
18. Cicero, ed. Klotz.
19. Gellius, ed. Hertz.
20. Plutarch's Lives, ed. Sintenis.

One source of help must be noticed apart; namely a valuable set of MS. notes (the first-beginnings of a once contemplated edition), kindly lent me by the Rev. John E. B. Mayor, Professor of Latin in the University of Cambridge. These I have laid under contribution for such extra matter as suited the pretensions of my book.

To Mr J. E. Sandys, Fellow and Tutor of St John's College, Cambridge, my thanks are due for much friendly assistance in various ways. The Index has been made by my good friends and pupils, T. E. Raven, of Gonville and Caius College, H. W. Simpkinson and R. F. Winch, of St John's, whom I thank heartily for their help.

W. E. H.

Isle of Man,
*Aug.* 13, 1874.

# INTRODUCTION.

## A. *The Text.*

NONE of the existing MSS. of the speech for Murena are of earlier date than the 15th century of our era. In fact at the beginning of that century no copy of it was known to have survived. About the year 1414 the great scholar Poggio found somewhere in southern France a manuscript containing it, but in a tattered state, and with the writing much defaced by ill keeping and the effect of time. This he either took into Italy or copied on the spot: certain it is that, while the speech was at once circulated among the learned, the old MS. found by Poggio has perished. The existing MSS. are universally admitted to be for the most part of little value; but there are three to which considerable weight has been attached by the German critics of the speech. These are:

1. Codex Lagomarsinianus 9. (Lag. 9).
2. Codex Monacensis. (M).
3. Codex Guelferbytanus. (G).

In the laborious edition of A. W. Zumpt a full collation of the MSS. readings will be found, due in great part to the labours of his uncle the well-known C. T. Zumpt. In the formation of his text he relies almost entirely upon Lag. 9, stating in the introduction that his uncle held a similar opinion of its merits, and likewise the historian B. G. Niebuhr. From a pamphlet by G. Sorof, I learn that Halm attaches much weight to G, while it has been generally observed that M agrees more nearly than any other MS. with Lag. 9. I have then taken Halm's text of 1868 as a convenient starting-point, deviating from it chiefly in passages where he inserts conjectural emendations into the text, or condemns the reading of the better MSS. on what seem to me

insufficient grounds. I have endeavoured to make use of the labours of others in a free spirit, and balance to the best of my power the claims of sense, authority, and grammar in each case. No doubt blunders will be found by old and experienced scholars, but this I cannot help. I have tried to avoid emendations as much as possible, even Halm's own: and must take the consequences. Zumpt's devotion to Lag. 9 seems to me unjustifiable, and in many cases perverse: in many others however by its help (to quote Sorof's words) '*egregiam medelam attulit.*'

## B. i. *Murena and his family* [adapted from Halm].

Our knowledge of L. Licinius Murena rests almost entirely upon the notices of his life preserved to us by his defender Cicero. The plebeian family of which he was a member came from Lanuvium and belonged to the new Nobility (§§ 15, 90); as yet it counted no consulars in its ranks; the first member of it who gained the praetorship was our Murena's great-grandfather (§§ 15, 86). The town too had never as yet produced a consul (§ 86). The most celebrated of the family was the father, who after having held the praetorship served with distinction as Sulla's *legatus* in Greece and Asia. After the treaty with Mithridates in B. C. 84 that general entrusted him with the command of the two legions left behind in Asia. In this position Murena got into fresh complications with Mithridates; his successes were not conspicuous, and were more than reversed by a marked defeat which he suffered in the passage of the Halys (§ 32, where the affair is grossly misrepresented, cf. Appian Mithr. 64). Sulla put an end to the quarrel by the recall of Murena, granting him however the honour of a triumph as though he had won notable victories (§§ 11, 15, App. Mithr. 66). In this, usually called the Second Mithridatic war, the son served his military apprenticeship under the command of his father (§ 11). According to the assertions of his accusers, the young officer gave himself up wholly to a life of Asiatic luxury and lowered the dignity of Rome so far as to dance like a harlequin in the company of his dissolute young companions,—charges which it is true his defender repels as utterly unfounded (§§ 11, 12, 13).

On his return from Asia, L. Murena became, along with his subsequent accuser Ser. Sulpicius, a candidate for the quaestorship; but in the tenure of this office found no chance of specially dis-

tinguishing himself (§ 18). The fresh outbreak of the war with Mithridates took Murena again to Asia to join the army of L. Lucullus. The official despatches of his commander gave testimony to the great services rendered by him as *legatus* in those victorious campaigns (§ 20).

Without having held the aedileship (§ 37), Murena obtained in 65 B. C. the praetorship, again with Sulpicius for a colleague; but had been more fortunate than the latter in the duties given him by the lot: for while he had got the *iuris dictio urbana*, the irksome task of conducting the enquiries *de peculatu* had fallen to Sulpicius (§§ 35—42). Already at that time animated by the wish to bring the consulship into his family, Murena celebrated the Apollinarian games, the conduct of which belonged to the *praetor urbanus*, with splendour all the greater that by reason of his having missed the aedileship he had found no opportunity of winning popularity by magnificent shows. After the Praetorship, he received in 64 B. C. as propraetor the government of Transalpine Gaul (§§ 42, 89). Before the expiration of his second year, leaving his brother and *legatus* G. Murena behind as his deputy, he returned to Rome to accompany the triumph of Lucullus, and stand for the consulship (§ 89, Sall. Cat. 42). It having become notorious that Catiline's band of conspirators had decided to carry through this election with violence, and to kill the presiding Consul and the rivals of their leader, the election appointed for the 22nd of September was put off, and the consul employed the time thus gained in forming for himself a strong escort of young men, under whose guard the election was held without disturbance, (about the middle of October) and resulted in favour of Dec. Silanus and Murena. For the sequel of this, see below on the trial and the pleaders for the prosecution and defence. One thing more remains to be said of the accused; he was clearly a man of good temper and judgement, if we may trust the account in Plutarch Cato 28 of his rescuing and protecting Cato in a riot, or ib. 21 *ἀποφυγὼν δὲ ὁ Μουρήνας οὐ πονηροῦ πάθος οὐδὲ ἄφρονος ἔπαθεν ἀνθρώπου πρὸς τὸν Κάτωνα· καὶ γὰρ ὑπατεύων ἔχρητο συμβούλῳ τῶν μέγιστων καὶ τἆλλα τιμῶν καὶ πιστεύων διετέλεσεν.*

## ii. *For the Prosecution.*

(1.) Servius Sulpicius Q. F. Lemonia Rufus, a famous jurist, was born probably in 105 B.C. (Cic. Brutus § 150). His early devotion to improving studies was remarkable: he we[illegible]

study at Rhodes (ib. § 151), and on his return to Rome seemed to have chosen rather to take the first place among jurists than the second among orators (ib. § 151). He is compared with Cicero himself, and the pair are matched with Scaevola and Crassus; for while Sulpicius, like Scaevola, cultivated his powers of oratory to back a knowledge of case-law, his eloquent contemporary and friend learnt enough of case-law to be a complement of his oratorical skill (ib. § 150). He studied law under two eminent jurists, Lucius Lucilius Balbus and G. Aquillius Gallus, but soon surpassed the latter in painstaking accuracy and the former in despatch; combining, says Cicero (ib. § 154), the merits of both in himself. Sulpicius and Cicero went up the ladder of office step for step (ib. § 156): and as we know that Cicero held each office at the earliest age permitted by law (*anno suo*), we can find the dates of Sulpicius' Quaestorship (viz. 74 B.C.) and Praetorship (65 B.C.) with tolerable certainty. In both these offices he had for colleague L. Licinius Murena (pro Mur. § 18, §§ 35—42). In B.C. 63 both came forward as candidates for the consulship of the following year: neither had, so far as we know, held the Aedileship, but Murena had become popular as *praetor urbanus*, while Sulpicius had had no chance of winning favour. Besides, during the canvass, it became apparent that the latter had given himself up to the design of prosecuting Murena for corrupt practices under the new law of the consul Cicero (*lex Tullia de ambitu*, pro Mur. §§ 5, 67, Dion XXXVII. 29). The result of the election was that out of the four candidates (Decimus Junius Silanus and L. Sergius Catilina being the other two) the choice fell upon Silanus and Murena. The subsequent rebellion and death of Catiline will be found treated in the introduction to Mr Wilkins' edition of the Catilinarian speeches. Sulpicius brought Murena to trial, with what result will be presently seen. He himself did not attain to the consulship until the year 51 B.C. In the civil war he took the side of Caesar, and was appointed by him to the government of the province of Achaia in B.C. 46 (Cic. ad Fam. IV. 3, 4, 5): but he was greatly troubled at this time by the state of affairs and the manifest collapse of the Commonwealth (ad Fam. IV. 1, 2, 3); in fact, though taking part with Caesar, he was, from his slowness of disposition (ad Fam. VIII. 10. 3) and want of decided views (ad Att. XI. 7. 4), long unable to make up his mind as to the course he should follow. In B.C. 43 he was sent to the camp of Antonius on an embassy, which he undertook from patriotic motives, though at the time

suffering from severe illness. He died on this service in the lines before Mutina, and Cicero with sincere grief delivered a splendid eulogy on the life and merits of his departed friend, the speech known to us as the ninth Philippic. His intimate friendship with Cicero is perhaps best shewn by two letters that passed between them in the year 45 B.C. Early in February Cicero had lost his daughter Tullia, who died suddenly in childbirth. When Sulpicius heard of this, he wrote to Cicero a letter (ad Fam. IV. 5), conveying with diffident and tender delicacy the consolations he could offer in so great a trouble. Cicero replied (ad Fam. IV. 6) in a letter which, though mournful and querulous in tone, shews how truly he appreciated the kind-hearted platitudes of his friend, which, if not new, were still grateful to him. The two letters are well worth reading, and should be read by every one in connexion with the ninth Philippic and the speech for Murena.

(2.) M. Porcius Cato, great-grandson of the famous censor of the same name, was born B.C. 95. The main details in connexion with his life will be found in any biographical dictionary. He was celebrated chiefly for a rugged firmness of character, which shewed itself early in him, and was further developed by his acceptance of the stern doctrines of the Stoic school. A man whose name stood for uprightness itself, and for unflinching devotion to duty, for morality of life and frugal simplicity, in an age of time-serving and corruption, an age of extravagance and immorality, when to be patriotic was to be a marked man, exposed to the ridicule of the careless and the knife of the traitor, he stood out among his feeble contemporaries as one who though with them was not of them. For this reason he was unable to exert any great or lasting influence on his fellow-citizens: most admired without following him. Cicero, who was intimate with him, seems to have valued his worth very highly, but to have generally looked upon his plans as unpractical, in fact as a useless protest against the degeneracy of the times (ad Att. I. 18. 7, II. 1. 8, de Off. III. § 88, ad Att. IV. 16. 12, XI. 7. 4, de Divinat. I. § 24, Parad. § 1, pro Mur. *passim*, etc. . . . ). In the year B.C. 46, when the Pompeian cause in Africa had been lost at the battle of Thapsus, Cato withdrew to Utica, and after deliberation slew himself, feeling that he had no further mission to perform. Even under the Caesars the praises of Cato were sung by the poets in their choicest lines; see in particular Hor. Carm. I. 12. 35, II. 1. 24, A. P. 14, Verg. A[illegible]

670; a 'speech of Cato when at the point to die' formed a favourite rhetorical exercise in the schools (Persius III. 45): but his true epitaph was written by Lucan (Phars. I. 128),

victrix causa deis placuit, sed victa Catoni.

The following lines (II. 380 foll.) also deserve quotation:

...hi mores, haec duri immota Catonis
secta fuit; servare modum finemque tenere,
naturamque sequi patriaeque impendere vitam;
nec sibi sed toti genitum se credere mundo.

And again (II. 388—9),

.....urbi pater est, urbique maritus;
iustitiae cultor, rigidi servator honesti.

Such was the man who declared before this consular election that he would prosecute any candidate whom he found to have been guilty of corrupt practices as defined by the existing law (pro Mur. § 62, Plut. Cato 21). But Catiline fled from Rome to join the rebel band of Gaius Manlius, which section of the conspirators had already raised in Etruria the standard of open revolt. One of the successful candidates, Silanus, was married to Cato's sister, and Cato yielded so far as to spare a brother-in-law. The course which he finally adopted was, to join forces with Sulpicius, then getting up his case. The latter then gave up his designs against Silanus, took Cato to be a *subscriptor*, and the two directed their whole strength against Murena. Cato was at this time tribune-elect. Though a Stoic, he was a fine speaker (Brutus § 118).

(3.) Servius Sulpicius Rufus, another *subscriptor* in this case, is generally represented as the son of the accuser. But had this been so we must have found some allusion to it in the speech. Halm then is right in leaving his identity undefined. In § 57 the *titulus* speaks of him as *adulescens*, and from § 56 we learn that his father was a friend of Murena.

(4.) Gaius Postumus seems to have been the name of the third *subscriptor*, about whom nothing more seems to be known than is to be found in the speech, §§ 54, 56, 57, 69.

## iii. *For the Defence.*

(1.) Marcus Tullius M.F.M.N. Cicero was born at Arpinum B.C. 106. To attempt any remarks on his character would be

out of place here. The facts connected with him which have most to do with the present case are these. In the year of his consulship (B.C. 63) he was brought face to face with one of the most serious dangers that ever threatened Rome, the foul conspiracy of Catiline. His watchfulness and energy thwarted all the plans of the band of traitors, and without doubt saved the State, as he is never weary of telling us. The story is written in Roman history, and needs no repetition here. Early in this same year, following the declared will of the Senate, he had carried a law to supplement the *lex Calpurnia de ambitu*, imposing more stringent penalties and defining more accurately the practices regarded by the law as 'corrupt.' (See notes on §§ 46, 47.) When Murena was accused of *ambitus*, the consul, to the surprise of some, came forward to defend him. His reasons for this course were,—

(a) He had been returning officer at the election, and felt bound to support the man whom he had declared duly elected. §§ 1, 3.
(b) He had been exposed to great dangers in his own year of office, and must needs feel for his successor, who would have to carry out what he had begun. §§ 3, 4.
(c) Murena was an old friend. §§ 5, 8, 10.
(d) Murena was innocent. §§ 5, 67—77.
(e) One who had risen to be praetor and consul by his efforts as a pleader could not refuse the brief. §§ 8, 9, 10.
(f) The safety of the State demanded the acquittal of the consul-elect. §§ 4, 78—85.

These are stated in the speech with more or less sincerity, and some serve as arguments for the defence. But from his own admissions (see note on § 79) it is pretty clear that only (f) and perhaps (c) can really have had much weight with him.

(2.) Quintus Hortensius, who seems also to have borne the name *Hortalus* (ad Att. II. 25. 1, IV. 15. 4), the famous rival of Cicero in the forum, was born B.C. 114, and early gave proofs of great talent (Brutus § 228). At the age of 19 he made his first appearance as a speaker, and won the approval of even the most exacting connoisseurs (ib. § 229). His reputation increased with his experience (ib. § 301), and he became the leading orator of the day. He was noted for almost preternatural powers of memory (ib. § 301), for intense interest in and application to his profession

(ib. § 302), and for the nicely-balanced arrangement both of his opening speeches and replies (ib. § 302). His style of oratory is characterized as tasteful finished and rich, the result of great ability strengthened by constant practice (ib. § 303). He never failed to bring out all the points of his argument and make the best of his case (ib. § 303). His voice was ringing and clear, his delivery pleasing; but he was inclined to overdo movement and gesture (ib. § 303). He died in B.C. 50 (ib. § 229). He had ranked above Cicero as a pleader until the great Verres case (B.C. 70), after which Cicero stood out with a decided superiority (see Mr Forsyth's life of Cicero, ch. 4, for the tactics of the Defence in the trial). When Cicero became consul he changed his politics and supported the party of the *optimates*. This is why we find the latter pleading on the same side as Hortensius in the present trial.

(3.) Marcus Licinius P. F. Crassus, a contemporary of Hortensius (Brutus § 233), with little learning and less ability, rose by his diligent mastery of cases and by his personal influence to the front rank of advocates (ib. § 233), a position which he maintained for many years. His language was terse and correct, the matter handled with care; but he lacked brilliancy of diction. Though he got very excited, he never betrayed it in his voice, but spoke in a passionless unvarying tone (ib. § 233), which may perhaps be accounted for by his deafness (Tusc. D. v. § 116). Though not born to wealth (Plut. Crass. 1), he attained by frugality and judicious speculation to a vast fortune, so that he was nicknamed 'millionaire' (*dives*) and is spoken of proverbially (*Crasso invidere*, Cic. ad Att. II. 4. 2) as the wealthiest man of his day. He fell B.C. 53 in an ambuscade during his expedition against the Parthians (Lucan I. 104), and is placed by Plutarch alongside of the Athenian Nikias as an instance of an awful end following upon a moderate and circumspect life.

## iv. *The Trial.*

Murena was tried in the latter half of November, B.C. 63. Catiline had left Rome (§§ 78, 83), and this was on Nov. 7th, (Mr Wilkins' Ed. of Catil. speeches, intr. §§ 18, 19); again, Cato had not yet entered on his office of tribune (§§ 58, 81), and this took place on Dec. 10th. Cases of *ambitus* were dealt with by one of

the *quaestiones perpetuae* (first established B. C. 149 in cases of *repetundae*, Cic. Brutus § 106), the jury being presided over by one of the praetors. For the state of the laws concerning bribery, see notes on § 46, and for the composition of the jury, Appendix B. The names of the pleaders on both sides and a short notice of each are given above. Murena was also supported by the appearance in court of several men of mark, the most prominent being Lucius Licinius Lucullus (§ 20). Whether the accused was guilty of the charges brought against him is not certain; but from the stress laid by Cicero on the political exigencies of the time (§§ 4, 79), and the orator's own boast (pro Flacco, § 98, cf. Quintil. VI. i. 35), we naturally infer that he was. At any rate he was acquitted, for he held the consulship in the following year.

## C. *Remarks on the Speech.*

Mr Forsyth well says 'it is a striking proof of the elastic energy of Cicero's mind that, at the very moment of the explosion of the conspiracy, and in the midst of the most awful danger, he was able to deliver in defence of one of his friends a speech distinguished by its light wit and good-humoured raillery.' If we put ourselves for a moment at that point of the case where the consul rises to speak we see that

(1) He had been charged with inconsistency and with condoning illegal acts by undertaking the defence.
(2) Murena's life had been painted in glaring colours as profligate and unworthy of the consulship.
(3) Murena had been charged with corrupt practices at the election.
(4) Sulpicius had been held up as a model candidate, who would have been elected but for these practices; and Cicero himself had supported his candidature.

It was clear that the first three of these points would only bear very gentle handling, and (3) had been dealt with in detail by the juniors. The case was otherwise with regard to (4). Sulpicius had taken a false step when he made light of Murena's services in the field: it was easy to retort on him with double force by attacking the 'nice sharp quillets' of the jurists in a tone of bantering raillery. There was also an opening for retort in (3); for Cato had put forward the specific charges not merely as open

violations of the written law, but as opposed to the moral principles of the Stoic school. It was self-evident that a playful exposure of the unpractical nature of the Stoic paradoxes would seriously weaken the force of those charges which were formidable chiefly from the reputation of Cato. But no one knew better than Cicero that the real key to the defence lay in the political situation of the moment. Catiline's conspiracy was discovered but not crushed: the ringleader was still in arms, the capital was thought to be full of his accomplices. There were then three lines of defence to be employed:

(1) The commonwealth needs all its officers at this crisis:
but the meeting of the centuries for the election of a new consul before Jan. 1 may be prevented by dozens of things (e. g. religious scruples about an *omen*):
therefore, keep the consuls you have.

(2) The man for the time must be a man of action, not of forms and quibbles:
Murena is the former: Sulpicius the latter:
therefore, do not condemn a Murena, to make room for a Sulpicius.

(3) The needs of the moment are more pressing than the dangers of *ambitus:*
granting that Murena may have been guilty to some extent of the latter, he is the very man to meet the former:
therefore, look to the more patriotic side, and acquit Murena.

Such were the arguments which procured an acquittal; and, for aught I can see, they are very good ones. It mattered little that they were irrelevant to the charge (see Appendix A): they were such as Roman jurors could not resist; and the object was to persuade these. As to the style of the speech, it displays a decided archness and humour, as in the treatment of jurisprudence (§§ 19—30), and in that of the paradoxical dogmas of the Porch (§§ 61—65), in the description of Sulpicius' want of electioneering tact (§§ 43—47, cf. Quintil. XI. i. 69), and of Cato's perverse refusal to recognize ordinary practices (§§ 68—77, cf. Quintil. XI. i. 70). It is also remarkable for its moderation. This is without doubt due to the circumstances in which the speaker was placed. He was pleading on the opposite side to Cato and Sulpicius, two intimate friends; and it would not only have been distasteful, but

have weakened his case, had he given the rein to oratorical vehemence. It is not to be wondered at that when Cicero fell upon the Stoics Cato smiled, and turning to the bystanders said 'sirs, how witty our consul is' (Plut. Cato 21). If we turn to the scornful attack on the Epicureans in pro Sestio § 23 foll., we see how different a tone the orator could take when it suited him: and we know well that neither Cato nor Sulpicius made any difference in their feelings or behaviour towards Cicero after the delivery of this speech.

To give some idea of the opinion entertained of the speech by a great critic, it may be well to mention that it is alluded to by Quintilian no less than sixteen times, most of these taking the form of quotations in illustration of some rhetorical figure or device. It supplies also a first-rate instance of varied expression, for jurisprudence and its practice are spoken of by seventeen different names (§§ 9, 19, 22—25, 28—30). The humorous application of the phraseology of the Porch (§§ 3, 60, 77) is also worthy of notice, while the artful introduction of the argument from state-expediency (§§ 78—80) is beyond all praise. The inaccuracies as to matters of fact, which are commented on in the notes, do not detract from the merit of the speech: as instances of oratorical intensification (*δείνωσις*) we may refer to the pictures of Mithridates (§§ 32—34) and of the dangers to be dreaded from the accomplices of Catiline (§§ 78—85).

It is always to be remembered that we have the speech not as it was delivered (see on § 57), but as it was prepared for publication; and it is not unlikely that some of the more finished passages (such as §§ 62—65) received their last touch after the trial.

# ABSTRACT OF THE SPEECH.

I *Exordium.* (*a*) §§ 1, 2 to *tueatur.*

The solemn prayers I uttered as presiding officer at the late election bind me to wish well to the candidates whose names I then published as elected consuls. You, gentlemen, are now the representatives of Heaven; I would claim your protection for Murena.

(*b*) §§ 2 *et quoniam* to 10.

I have been reproached for undertaking this case: let me then begin by justifying myself, that my words may have weight. First I must protest against Cato's Stoic severity, and maintain, that as presiding consul I am the very man to plead for Murena. He has a claim upon me for defence of his title to office. I have just coped with Catiline; is it not human nature to feel anxious for one who is to meet the dangers I have faced? again, we must have our two consuls to open this next critical year. What if I did pass a law for the prevention of corrupt practices? May I not plead for the guiltless? I dealt severely with Catiline, it is true, but I acted perforce an uncongenial part: I do but follow my natural bent in pleading for Murena. As for you, Sulpicius, it is too bad of you to say that I act unfriendly by you; but I will calmly defend myself. Did I not support you as a candidate? yes, but to expect me to help in crushing Murena, is really going too far. He is an old friend and even you shall not make me desert him. Besides, neither my professional standing, my feelings, nor my conscience would suffer me to decline the work of his defence. Look at yourself: who but Servius gives advice to everybody? How otherwise would most men get advocates? I will not listen to such charges: I will be gentle with you, but I will plead for my friend Murena.

II *confutatio*, §§ 11—83 *ad quod velis negotium.*

(1) *de vita Murenae* §§ 11—14.

How weak are the charges on this score! the prosecution felt bound to say something. As to his career in Asia, it was one of

hard campaigning: it was his duty to go; and why should he not adorn his father's triumph? Asia is Asia, I grant; but whether is the better, to avoid temptation, or to withstand it? the whole affair is a credit to him. As for his being a mountebank, you ought to know better, Cato, than to talk in that vein. The charge is unsubstantiated and quite out of character. You can bring nothing against my client under this head; out of the mouths of the prosecution I shew that he is without reproach.

(2) *contentio dignitatis*, §§ 15—53.

Your claims to the consulship are very strong, Sulpicius; but so are those of Murena: you are just a match. Your depreciation of his family and puffing-up of your own is partial and not based on fact. Your family is better known to book-worms than to the people. I count you as a self-raised man, and all credit to you for it. I did hope that my exertions had gone some way towards stopping the mouths of the proud old families. I got the consulship against two patricians. Why not? You were above Murena on the roll of quaestors, you say. A mere piece of luck; and as quaestors neither of you distinguished himself much. Here you widely diverge from one another. While you went through all the labour and annoyance of a jurist's life at Rome, Murena was in the east, displaying all the most soldierly qualities as lieutenant of Lucullus. Now I for my part had rather not have brought out this contrast so strongly; but you have driven me to it. The fact is, Sulpicius, men were tired of you. I have felt the same thing myself. And clearly the soldier has far higher claims to office than the jurist. Rome and all in or under it are protected by soldiers. They are our guardians. You must not think too highly of your learning as a jurist: your other merits give you far more claim to distinction than jurisprudence ever will. The three great avenues to honour must rank thus, 1 military skill, 2 the eloquence of the statesman and pleader, 3 jurisprudence. The last cannot compare with the other two; it is paltry, and your hidden lore has long since been made public property. You now take your stand upon words and forms which are easier to ridicule than to explain. the proceedings before the praetor in cases of disputed title to property are foolish and absurd: the dependence of women, and the maintenance of sacred rites, ordinances of our ancestors, have alike been tampered with by these men of wordy wisdom. Yet they often cannot tell which of two words is the right one, and so use both. As I said before, this study has not the making of a co[illegible]

in it: it is too paltry, it does not confer obligations; it is tied down to a certain time of the year, and is worthless beyond the walls of Rome. It is a small, easy matter; give me two clear days, and I will come out as a jurist. Again, oratory too is a pursuit far better adapted for a public career than jurisprudence. Many a jurist has begun life as a public speaker and failed; jurisprudence was but his second string. Think of the exertions the orator must make, and the power he wields when he has made them. A man, I say, can rise to the top of the political tree in two ways,—either as a soldier or as a public speaker. I set aside your undoubted personal merits, Servius; we are talking of rising to office. In times of war and civil strife, when confusion reigns and all peaceful pursuits are at a standstill, who form the bulwark of the state? The army, to be sure. Then yield the palm to the soldier, for such as he have made Rome what she is. As for Cato's depreciation of Murena's military services and his contempt for Orientals, I can only say that it is not justified by history. If, Cato, you consider the great resources and ability of Mithridates, the resistance he offered to our arms, his vast schemes, the investment of Kyzikus and the sea-fight off Tenedos, the anxiety of the Senate and people, the glory won by Lucullus and Pompeius, you will change your tone in reference to Eastern warfare. And I maintain that in it Murena displayed the greatest firmness generalship and energy, and that this gave him as good a claim to the consulship as all our civil business-duties. Oh, but when you both were elected praetors, you were returned before him on the roll. Well, but you have no agreement to that effect with the people. And who does not know the uncertainty of the tide of popular favour, and the strange results of elections? Their whole working defies calculation. But we know of two things that went against Murena in the praetorian election, (1) his having never given any public shows, (2) the absence of those who had known his merits as a general or governor of a province. All this was reversed when he stood for the consulship. You do not appreciate the force of the army vote and the splendid games of Murena in gaining him the consulship. This is not all: look at the difference of your luck and his in the allotment of praetorial functions. He had all the openings for winning popularity, you of giving offence. Then he took a province, and earned the affections of many; you were doing your duty at Rome. Do not forget that a provincial governor can give his friends a lift now and then; yours were no doubt disappointed

in you. But to be plain with you, it was all your own fault that you lost the consular election. You gave yourself up to preparations for this trial; and, as I told you, the consequence was that your friends held back then, in order to support you in court, the people would not waste votes on a man who gave up all for lost, and your own time was taken up with matters which interrupted your canvass. You are fitter to conduct a trial than to canvass for office. Again your threats and denunciations in the Senate in the debate on the new bribery law, the extreme measures you advocated, and some of which you carried, all went against you with the people. Above all, you made us afraid that Catiline would be elected while you wasted your time on other things. Of course people voted for Murena, as the only way to save the state. Catiline was exultant, you were depressed: remember the troubles we had had with that ruffian already; think of my breastplate on the election-day, of all the qualifications of Murena for the office, and the tact he shewed in his canvass; and you will not wonder at the result.

(3) *de ambitus criminibus*, §§ 54—83.

I must now deal with the specific charges: but first I will remark that Murena is hardly used. The time and the accusers are such as one would scarcely have looked for.

Now for Cato, the prop and stay of the case for the prosecution. I fear the weight he may carry with the jury more than the charges he can bring. As for the weight of his character, I say that it ought rather to incline the jury favourably towards the accused, than to tell against him. Romans are not wont to be the slaves of a great name and reputation. The accuser cannot be jury as well. Besides, you push things too far, Cato: naturally upright and strict, you have been trained into a sort of perverseness and bitterness by the Stoic principles which you have imbibed. The stiff morality of the Porch is utterly unpractical; their paradoxical dogmas break down when applied to real life. Had you been an Academic or a Peripatetic you had been, not perhaps a better, but a gentler man: you would never have shewn such animosity towards Murena. Yet I think that with age you will come round; you are now still a young man, and fresh from the study of Stoic ethics. Even your masters do not expect people to act fully up to their high-pitched theories. We have often seen that Stoicism is consistent with courtesy and good feeling. Think of your great-grandfather. The name 'Cato,' then, must be set aside: let us

to the charges. You say with truth that a decree of the Senate defines certain practices as bringing candidates under the Calpurnian law. But when you come to apply this to the case of Murena you fail in each separate charge to prove what is the real point. You take popularity to be a proof of bribery, and hospitality of treating. You are impugning, not the acts of Murena, but the usages of political life. Your criticisms on the morality of entertaining citizens at election-time are carried too far, and are diametrically opposed to Roman habits and ways of thinking. You confound public munificence with personal luxury. Remember how ridiculous Tubero made himself by crossgrained application of dogmas out of season. Besides, if you must be very nice as to the moral bearing of every little thing, how about your own canvass? Fie, fie, Cato, on your affectation, deceitfulness and time-serving. What would the Stoics say? You took up this prosecution, you say, for the public weal. No doubt you mean well, but you are mistaken. Mine is the side of true patriotism. Think, gentlemen of the jury, of Catiline's accomplices in the city. Do not play their game: we shall want our two consuls for the new year. This is a critical time: frightful plans are formed against Rome by her own degenerate children. My magistracy is drawing to its close; leave me my successor. Think, Cato, on all this; remember that the plots of years are coming to a head now: see the danger in which I stand, and give heed to your own. It is your manifest duty to help in securing for this crisis the services of such a man as Murena in the consulship.

III *peroratio*, §§ 83 *quamquam* to end.

Gentlemen, all rests on you. Surely you will not play Catiline's game for him: the hour is come; take away our next year's consul, and the State is lost. In the name of our country, on behalf of Murena, I appeal alike to your patriotism and your mercy for an acquittal. Do this, and I can assure you that in so doing you will have done what is for the best.

# ABBREVIATIONS USED IN THE NOTES.

M = Matthiae's edition, 1831.
Z = A. W. Zumpt's edition, 1859.
T = Tischer's edition, 1861.
H = Halm's 2nd edition, 1872.
Mommsen = Mommsen's History of Rome, English translation.
Madv. = Madvig's Latin Grammar, English tr., 4th ed.
Madv. de Fin. = Madvig's edition of the *de Finibus*. 2nd ed. 1869.
Ritter and Preller = Ritter and Preller's Historia Philosophiae Graecae et Romanae, 4th ed. 1869.
Zeller = Zeller's 'Stoics Epicureans and Sceptics' translated by Reichel. 1870.
cf. = compare.
sup. = above.
inf. = below.
'Festus, p. 207 M.' refers to the page of Müller's edition.
auct. ad Herenn. = author of the treatise *ad Herennium*.
auct. petit. cons. = author of the treatise *de petitione consulatus*.
Lael. = *Laelius seu de amicitia liber*.
Cat. mai. = *Cato maior seu de senectute liber*.

# M. TULLI CICERONIS

## ORATIO

# PRO L. MURENA,

## AD IUDICES.

1. QUOD precatus a dis immortalibus sum, iudices, more in- 1
stitutoque maiorum illo die, quo auspicato comitiis centuriatis L. Murenam consulem renuntiavi, ut ea res mihi, fidei magistratuique meo, populo plebique Romanae bene atque feliciter eveniret, idem precor ab isdem dis immortalibus ob eiusdem homi-

i. 1. *quod precatus.....*] The opening words of the speech *post reditum ad Quirites* closely resemble these. The MSS. here give *deprecatus*, which will not make sense. The reading indicated by *precor* and *precatus sum* following is established by Quint. IX. iv. 107, where this opening is quoted with the remark *creticus initiis optimus.* The presiding magistrate offered up a formal prayer after the election. cf. Liv. XXXIX. 15, *sollemne carmen precationis.*

*auspicato*] The abl. of the perf. participle often stands singly thus. cf. Madv. § 429 obs. 1, Liv. V. 38.

*renuntiavi*] 'declared duly elected.' The consuls settled by lot or agreement which should act as returning officer at the elections for the following year.

*fidei*] A correction of Lambinus, from the *fides* of some MSS. The word is possibly spurious. My 'honour,' 'trustiness.'

*magistratuique*] *que* as often only with the last of the series. Two more instances of this occur in this very section.

*populo plebique*] This phrase is a survival from a time when the *Plebs* were a mass of dependent aliens outside the *populus* = *patricii*, the latter alone being burgesses and engrossing all political power. We find it elsewhere, as in the title of *ad fam.* X. 35, and in the latter of the *carmina Marciana* quoted in Liv. XXV. 12. Cicero is here no doubt giving the exact words of the old prayer. See Mommsen, bk. I. cc. 5, 6, Dyer, Hist. of Kings of Rome, p. 301.

*bene atque feliciter*] Also formal. C. Plin. Paneg. 72, *nam quod precatus es, ut illa ipsa ordinatio comitiorum bene ac feliciter eveniret, nobis, rei publicae, tibi.*

nis consulatum una cum salute obtinendum, et ut vestrae mentes atque sententiae cum populi Romani voluntatibus suffragiisque consentiant eaque res vobis populoque Romano pacem, tranquillitatem, otium concordiamque adferat. quodsi illa sollemnis comitiorum precatio consularibus auspiciis consecrata tantam habet in se vim et religionem, quantam rei publicae dignitas postulat, idem ego sum precatus, ut eis quoque hominibus, quibus hic consulatus me rogante datus esset, ea res fauste, feliciter
2 prospereque eveniret. quae cum ita sint, iudices, et cum omnis deorum immortalium potestas aut translata sit ad vos aut certe communicata vobiscum, idem consul eum vestrae fidei commendat, quem antea dis immortalibus commendavit, ut eiusdem hominis voce et declaratus consul et defensus beneficium populi Romani cum vestra atque omnium civium salute tueatur.

et quoniam in hoc officio studium meae defensionis ab accusatoribus atque etiam ipsa susceptio causae reprehensa est, ante quam pro L. Murena dicere instituo, pro me ipso pauca dicam, non quo mihi potior hoc quidem in tempore sit officii mei quam huiusce salutis defensio, sed ut meo facto vobis pro-

*ob obtinendum*] 'now the thing aimed at is to make good'.....T. *salus* = '*acquittal.*'

*et ut*] refer closely to *idem* (neut.), then it = *precor ut ea res feliciter eveniat et ut*.....H.

*comitiorum*] prayer 'at' elections. Gen. of possession or relation. cf. § 31 *victoriae eorum bellorum*, § 73 *officium necessitudinis*, § 56 *odio inimicitiarum*, § 63 *adiumenta doctrinae.* See Nägelsb. Stil. § 100, p. 275.

*religionem*] 'sanctity.' H. cf. pro Rosc. Am. § 66, *magnam vini magnam necessitatem magnam possidet religionem paternus maternusque sanguis.*

*idem ego*.....] *i. e.* so solemn is the prayer, that my use of it implies a prayer for the weal of those elected. Z.

*me rogante*] = *me comitia habente.* The full phrase is *consul populum consulem rogat*, cf. Liv. III. 65 *qui plebem Romanam tribunos plebi rogaret* and VI. 42 end of book. H.

2. *potestas*.....] M. cf. pro Rabirio § 5 *vos, quirites, quorum potestas proxime ad deorum immortalium numen accedit.*

*quem*] This conj. has been now supported by MS. Lag. 9 and makes much better sense than *qui*, unless with H. we read above *consulem* for *consul eum.*

*beneficium*] The distinction just granted him. cf. §§ 3, 86, 90. H.

*cum*] 'to the preservation of'... cf. Madv. § 257 obs. 5. pro Planc. § 102.

*et quoniam....ante quam.....dicam*] cf. Madv. § 476 b.

*pro me ipso*] Cic. is here seeking to secure *benevolentia* by self-justification. H. cf. de Inventione I. § 22.

*instituo*] For indic. see Madv. § 339, obs. 2 c.

*non quo...sed ut*] Madv. § 357 b obs.

bato maiore auctoritate ab huius honore, fama fortunisque omnibus inimicorum impetus propulsare possim.

II. et primum M. Catoni vitam ad certam rationis normam 3 derigenti et diligentissime perpendenti momenta officiorum omnium de officio meo respondebo. negat fuisse rectum [Cato] me et consulem et legis ambitus latorem et tam severe gesto consulatu causam L. Murenae attingere. cuius reprehensio me vehementer movet, non solum ut vobis, iudices, quibus maxime debeo, verum etiam ut ipsi Catoni, gravissimo atque integerrimo viro, rationem facti mei probem. a quo tandem, M. Cato, est aequius consulem defendi quam a consule? quis mihi in re publica potest aut debet esse coniunctior, quam is, cui res publica a me uno traditur sustinenda, magnis meis laboribus et periculis sustentata? quodsi in his rebus repetendis, quae mancipi sunt, is periculum iudicii praestare de-

ii. 3. *rationis*] a system of philosophy, viz. the Stoic. H.

*ad normam*] πρὸς κανόνα. *derigenti.* cf. on § 77.

*momenta*] 'the relative weight, claims of'...cf. § 18 *pari momento sortis.* Orator § 47 *argumentorum momenta*, and so *rationum, verborum*, &c. *perpendenti.* cf. on § 77.

*officio*] 'service,' *i. e.* the defence of Murena. so § 2 *in hoc officio.*

*rectum*] a Stoic word, purposely used here = κατόρθωμα, cf. de Off. I. § 8, de Fin. III. § 24. cf. on §§ 60, 77.

*legis*] sc. *Tulliae de ambitu*, passed in this very year. cf. on §§ 46, 47, 67.

*uno*] Lambinus' correction of MSS. *una.* Cicero had held the election himself, and his colleague G. Antonius Hybrida was away from Rome at this time, fighting Catilina. Hence too we see that the oratorical prolepsis in *traditur* is not unnatural. Z.

*sustentata*] *sustenta* is not used.

*his*] with Z. and all MSS. 'these every-day things.' cf. on § 24.

*repetendis*] sc. when A claims from B a thing sold by C to B, it not having been the property of C at all, as A maintains. The process is technically called *evictio rei venditae.* cf. Julius Paullus, Sentent. II. 17.

*quae mancipi sunt*] *Res mancipi* are things the transfer of which could only be accomplished by *mancipatio* or *in iure cessio.* cf. on § 26. *mancipatio* was a form of transfer by a symbolic sham-sale: the price was not paid by number but by weight. A man with a pair of scales (*libripens*), who must be of full age (*impubes libripens esse non potest*, Ael. Gallus, fragm. 6) and a small piece of money (*negotium per aes et libram*) were necessary, and 5 witnesses, Roman citizens of full age. *res mancipi* are enumerated by Ulpian XIX. 1, as *praedia in Italico solo, iura praediorum rusticorum*, and *servi et quadrupedes quae dorso collove domantur.* All other things are *nec mancipi.* As according to Ael. Gallus, fragm. 9 *nexum est quodcunque per aes et libram geritur, mancipatio* must have been a kind of *nexum.* cf. Gaius II. 27, M.'Manilius, fragm. 5, Q. Mucius Scaevola, fragm. 5.

*is...qui*] sc. the *venditor* who had to guarantee the title to the property sold. *praestare.* sc. *emptori.* Here Cicero is bound to make good the title to the consulship for Murena.

bet, qui se nexu obligavit, profecto etiam rectius in iudicio consulis designati is potissimum, qui consulem declaravit, auctor beneficii populi Romani defensorque periculi esse de-
4 bebit. ac si, ut nonnullis in civitatibus fieri solet, patronus huic causae publice constitueretur, is potissimum summo honore adfecto defensor daretur, qui eodem honore praeditus non minus adferret ad dicendum auctoritatis quam facultatis. quodsi e portu solventibus ii, qui iam in portum ex alto invehuntur, praecipere summo studio solent et tempestatum rationem et praedonum et locorum, quod natura fert, ut eis faveamus, qui eadem pericula, quibus nos perfuncti sumus, ingrediantur: quo tandem me esse animo oportet, prope iam ex magna iactatione terram videntem, in hunc, cui video maximas tempestates rei publicae esse subeundas? quare, si est boni consulis non solum videre quid agatur, verum etiam providere quid futurum sit, ostendam alio loco, quantum communis salutis intersit duos consules in re publica Kalendis Ianuariis
5 esse. quod si ita est, non tam me officium debuit ad hominis amici fortunas quam res publica consulem ad communem salutem defendendam vocare. III. nam quod legem de ambitu tuli, certe ita tuli, ut eam, quam mihimet ipsi iam pridem tuleram de civium periculis defendendis, non abrogarim. etenim si largitionem factam esse confiterer idque recte factum esse defenderem, facerem improbe, etiam si alius legem tu-

to be in fact the *auctor secundus*. cf. pro Caec. § 27 *P. Caesennius auctor fundi*. II in Verr. v. § 56.

4. *nonnullis*] M. refers to the Athenian σύνδικοι, or συνήγοροι. cf. Hermann Pol. Ant. § 133.

*praedonum*] cf. Thuc. I. 5, Odyss. III. 71 foll.

*qui ingrediantur*] = *quos ingredi scimus*. M.

The passage *quodsi.....subeundas* is quoted by Quintil. v. xi. 23. T. cf. 1or *rationem* §§ 35, 76, where it occurs with *comitiorum* and *officiorum*. It = the system of... 'how it is with' the weather.

*rei publicae*] 'polit'cal' storms. H.

*providere*] so de Fin. I. § 47, *nec quid eventurum sit provident*, II in Verr. v. § 22.

*alio loco*] §§ 79 foll.

5. *me*] sc. as a friend, in a private capacity. 'friendship.'

*res publica*] 'my country's interests.' 'patriotism.'

iii. *eam*] sc. *legem* = habit grown into a rule. cf. § 11 *lex accusatoria*.

*abrogarim*] so Z. after Wesenberg and it seems far better. 'though I have.....it by no means follows that I have...'. if *abrogarem* be kept, it must look back, as H. says, to the time of passing the law. 'when I passed.....I did not mean to.'.....

*defenderem*] 'maintain,' as often.

lisset: cum vero nihil commissum contra legem esse defendam, quid est quod meam defensionem latio legis impediat? negat 6
esse eiusdem severitatis, Catilinam exitium rei publicae intra moenia molientem verbis et paene imperio ex urbe expulisse et nunc pro L. Murena dicere. ego autem has partes lenitatis et misericordiae, quas me natura ipsa docuit, semper egi libenter, illam vero gravitatis severitatisque personam non adpetivi, sed ab re publica mihi impositam sustinui, sicut huius imperii dignitas in summo periculo civium postulabat. quodsi tum, cum res publica vim et severitatem desiderabat, vici naturam et tam vehemens fui quam cogebar, non quam volebam, nunc, cum omnes me causae ad misericordiam atque humanitatem vocent, quanto tandem studio debeo naturae meae consuetudinique servire! ac de officio defensionis meae ac de ratione accusationis tuae fortasse etiam alia in parte orationis dicendum nobis erit.

sed me, iudices, non minus hominis sapientissimi atque 7
ornatissimi, Ser. Sulpicii, conquestio quam Catonis accusatio commovebat, qui gravissime et acerbissime se ferre dixit me familiaritatis necessitudinisque oblitum causam L. Murenae contra se defendere. huic ego, iudices, satis facere cupio vosque adhibere arbitros: nam cum grave est vere accusari in amicitia, tum, etiam si falso accuseris, non est neglegendum. ego, Servi Sulpici, me in petitione tua tibi omnia studia atque officia pro nostra necessitudine et debuisse confiteor et praesti-

6. *negat*] oratorical repetition from § 3. Z.

*imperio*] exercise of official power. Wendt tr. 'machtspruch.'

*ego autem*] 'I reply that'...

*partes*] metaphor from the stage. so *docuit, egi, personam,* and *impositam sustinui.* M. cf. pro Sulla § 8.

*imperii*] sc. *consularis.* cf. in Catil. I. § 12. H. Perhaps the decree of the Senate (Oct. 25), *Videant consules ne quid detrimenti respublica capiat,* is also alluded to.

*nunc cum vocent*] 'now that I feel every....calling me to'... cf. on § 8.

*servire*] A strong word weakened by usage. Stronger is *inservire,* and strongest of all *deservire.* Z.

*alia in parte*] § 67 foll.

7. *sapientissimi*] Here as often of a learned jurist. cf. Lael. § 6.

*conquestio*] not in the technical sense of de invent. I. § 106, but as again in Cic. (§ 72, ad Q. fratrem I. 1, § 22) simply 'complaint.' Z.

*satis facere*] to justify myself in his eyes. This, as well as *adhibere arbitros,* is a legal expression. cf. § 27, *iudicem an arbitrum.*

*accuseris*] Z. remarks that this is one of the few instances of the second person sing. pass. in *ris* found in Cicero. cf. Madv. § 114 b.

tisse arbitror. nihil tibi consulatum petenti a me defuit, quod esset aut ab amico aut a gratioso aut a consule postulandum. abiit illud tempus, mutata ratio est. sic existimo, sic mihi persuadeo, me tibi contra honorem L. Murenae, quantum tu a me postulare ausus es, tantum debuisse, contra salutem nihil
8 debere. neque enim, si tibi tum, cum peteres consulatum, favi, nunc, cum Murenam ipsum petis, adiutor eodem pacto esse debeo. atque hoc non modo non laudari, sed ne concedi quidem potest, ut, amicis nostris accusantibus, non etiam alienissimos defendamus. IV. mihi autem cum Murena, iudices, et magna et vetus amicitia est, quae in capitis dimicatione a Ser. Sulpicio non idcirco obruetur, quod ab eodem in honoris contentione superata est. quae si causa non esset hominis, tamen honoris eius, quem adeptus est, amplitudo summae mihi superbiae crudelitatisque famam inussisset, si hominis et suis et populi Romani ornamentis amplissimi causam tanti periculi repudiassem. neque enim iam mihi licet neque est integrum, ut meum laborem hominum periculis sublevandis non impertiam. nam cum praemia mihi tanta pro hac industria sint data, quanta antea nemini, sic existimo, quibus

*a me*] 'on my side.' So pro Milone § 100. H.

*abiit*] sc. *frustra*. cf. pro Sest. § 72 *abiit ille annus*. Z. 'that season is past; circumstances have changed.'

*postulare ausus es*] 'had the face to claim from me.' In Greek ἀξιοῦν ἐτόλμησας. For matter cf. Quint. XI. i. 69.

8. *favi*] so Z. from MS. Lag. 9, and it is far better than the *adfui* given by some inferior MSS. 'supported you.' an election word.

*petis*] on same authority, instead of *petas*, which H. keeps, and compares with *vocent* § 6. But see Madv. § 358.

*hoc*] this principle, viz. that..... cf. pro Sulla, § 49 *intellegebat hanc nobis a maioribus esse traditam disciplinam, ut nullius amicitia ad pericula propulsanda impediremur*. H.

*etiam alienissimos*] cf. §§ 45, 56.

IV. *capitis*] Expulsion from the Senate and ten years exile, according to the *lex Tullia*. *obruetur*. cf. Ov. Amor. III. 1. 40, *obruit exiguas regia vestra fores*. inf. § 86.

*honoris contentione*] see on § 11, and for genitive cf. Madv. § 283 obs. 3.

*superata est*] It yielded to my friendship for Sulpicius.

*quae si causa non esset hominis, tamen...*] so I much prefer to read with Z, led by MS. Lag. 9. 'even were he not a personal friend, still'...

*famam*] so *notam, ignominiam*, etc. *inurere*. Here *fama* = bad name.

*integrum, ut...*] H. cf. Tusc. D. V. § 62 *ei ne integrum quidem erat ut ad iustitiam remigraret*. Madv. § 374 obs. 2.

*sic existimo...ingrati*] Here again the reading of Z., led by MS. Lag.

ceperis, ea, cum adeptus sis, deponere, esse hominis et astuti et ingrati. quodsi licet desinere, si te auctore possum, si nulla 9
inertiae, nulla superbiae, nulla inhumanitatis culpa suscipitur, ego vero libenter desino: sin autem fuga laboris desidiam, repudiatio supplicum superbiam, amicorum neglectio improbitatem coarguit, nimirum haec causa est eius modi, quam nec industrius quisquam nec misericors nec officiosus deserere possit. atque huiusce rei coniecturam de tuo ipsius studio, Servi, facillime ceperis. nam si tibi necesse putas etiam adversariis amicorum tuorum de iure consulentibus respondere, et si turpe existimas te advocato illum ipsum, quem contra veneris, causa cadere, noli tam esse iniustus, ut, cum tui fontes vel inimicis tuis pateant, nostros etiam amicis putes clausos esse oportere. etenim si me tua familiaritas ab hac causa 10
removisset et si hoc idem Q. Hortensio, M. Crasso, clarissimis viris, si idem ceteris, a quibus intellego tuam gratiam magni aestimari, accidisset, in ea civitate consul designatus defensorem non haberet, in qua nemini umquam infimo maiores nostri patronum deesse voluerunt. ego vero, iudices, ipse me existimarem nefarium, si amico, crudelem, si misero, superbum, si consuli defuissem. quare quod dandum est amicitiae, large dabitur a me, ut tecum agam, Servi, non secus ac si meus esses

9, seems better in itself. But the sentence is probably too far corrupted for full restoration. Steinmetz well compares a fragm. of Cato the censor, *nam periuurium siet, cum mihi ob eos mores, quos prius habui, honos detur, ubi datus est, tum uti eos mutem atque alii modi sim.*

9. *te auctore*] on your authority or responsibility.

*vero*] lays stress on *ego*. 'I for my part am quite ready to do so.' cf. ad Fam. IV. 6, *ego vero, Servi, vellem*... ad Q. fr. II. 7 (9) § 1.

*studio*] 'line,' 'profession.' cf. §§ 66, 75. *coniecturam*. cf. § 44.

*Servi*] With friendly familiarity he uses the *praenomen* only, here and elsewhere in the speech, when addressing Sulpicius; so with Cato, § 13. Z. cf. Hor. Sat. II. 5. 32, *gaudent praenomine molles auriculae.*

*respondere*] see on § 19.

*advocato*] not = an advocate, as in the later authors; but any legal assistant. 'when your opinion is taken.' lit. 'a backer.' cf. Phil. I. § 16, pro Caec. §§ 24, 43, Ter. Adelph. IV. 5. 43.

*causa cadere*] to be non-suited for informality in pleading. Z. cf. de Orat. I. § 166, ad Fam. VII. 14. Gaius IV. 68, Jul. Paullus I. 10.

*inimicis tuis*] rhetorical = *inimicis amicorum tuorum*. H.

10. *voluerunt*] not a law, but customary in the praetor's edict. T.

*non secus ac*] = *non aliter ac*, but *non secus quam* = *non minus quam*. For the latter cf. de Leg. II. § 5. Z.

*esses*] so Z. with the best MSS.

frater, qui mihi est carissimus, isto in loco: quod tribuendum est officio, fidei, religioni, id ita moderabor, ut meminerim me contra amici studium pro amici periculo dicere.

11 v. intellego, iudices, tris totius accusationis partes fuisse et earum unam in reprehensione vitae, alteram in contentione dignitatis, tertiam in criminibus ambitus esse versatam. atque harum trium partium prima illa, quae gravissima debebat esse, ita fuit infirma et levis, ut illos lex magis quaedam accusatoria quam vera male dicendi facultas de vita L. Murenae dicere aliquid coegerit. obiecta est enim Asia: quae ab hoc non ad voluptatem et luxuriam expetita est, sed in militari labore peragrata. qui si adulescens patre suo imperatore non meruisset, aut hostem aut patris imperium timuisse aut a parente repudiatus esse videretur. an cum sedere in equis triumphantium praetextati potissimum filii soleant, huic donis militaribus patris triumphum decorare fugiendum fuit, ut rebus

*isto in loco*] sc. the seat of the counsel for the prosecution. cf. pro Flacco, § 22, pro Rosc. Am. § 32, *ad subsellia.*

*officio — fidei — religioni*] 'duty,' 'honour,' 'conscience.' A fine climax.

v. 11. *contentione dignitatis*] 'in contrasting his claims to the consulship with those of his rivals.' So *contentio honoris*, §§ 8, 56. Otherwise in de Off. I. § 87, where *contentio honorum* = struggle for office, and in the *contentio honesti et utilis* of book III. cf. § 56 inf.

*ambitus*] 'corrupt practices,' of which there were two main branches, (a) simple bribery of voters (*largitio*), and (b) the use of intimidation by bribed gangs (*sodalicia*). Festus defines it generally as *crimen adfectati honoris.*

The whole of this *partitio* is quoted and praised by Quintil. IV. v. 12. In VII. i. 12 he remarks *anteactae vitae crimina plerumque prima purganda sunt, ut id, de quo laturus est sententiam iudex, audire propitius incipiat.* cf. also VII. ii. 33—34, IV. v. 3.

*lex*] see on § 5.

*male dicendi*] even of true charges. cf. § 13.

*Asia*] i. e. his life in that province. for its reputation cf. with H. ad Q. fr. I. 1, § 19 *corruptrix provincia*, also Tac. Agr. 6, Liv. XXXIV. 4, XXXIX. 6, inf. § 20.

*quae*] adversative, as in pro Rosc. Amer. § 83. H. 'and yet it was not that he sought after its luxury, but'...

*in militari labore*] in the course of hard service in the field.

*meruisset*] sc. *stipendia.*

*imperium*] hinting that the father was a martinet.

*in equis*] in the triumphal car sat with the general his children or near relations. The elder sons if still *praetextati* (*i. e.* not yet of age for taking the *toga virilis*) rode on the horses that drew the car. cf. Tac. Ann. II. 41, Suet. Tib. 6. Grown-up sons rode after the car on their own horses. cf. Liv. XLV. 40.

*potissimum*] 'are generally chosen to sit'...'by preference.' cf. §§ 75, 90, 3, 29.

*donis*] prizes for valour.

*decorare*] after *fugiendum fuit.*

communiter gestis paene simul cum patre triumpharet? hic 12
vero, iudices, et fuit in Asia et viro fortissimo, parenti suo, magno adiumento in periculis, solacio in laboribus, gratulationi in victoria fuit: et si habet Asia suspicionem luxuriae quandam, non Asiam numquam vidisse, sed in Asia continenter vixisse laudandum est. quam ob rem non Asiae nomen obiciendum Murenae fuit, ex qua laus familiae, memoria generi, honos et gloria nomini constituta est, sed aliquod aut in Asia susceptum aut ex Asia deportatum flagitium ac dedecus: meruisse vero stipendia in eo bello, quod tum populus Romanus non modo maximum, sed etiam solum gerebat, virtutis, patre imperatore libentissime meruisse pietatis, finem stipendiorum patris victoriam ac triumphum fecisse felicitatis fuit. maledicto quidem idcirco nihil in hisce rebus loci est, quod omnia laus occupavit.

VI. saltatorem appellat L. Murenam Cato. maledictum 13
est, si vere obicitur, vehementis accusatoris, sin falso, maledici conviciatoris. quare cum ista sis auctoritate, non debes, Marce, arripere maledictum ex trivio aut scurrarum aliquo

This constr. is found in Cicero now and then, as in de Orat. III. § 153. It is common in the poets, as Hor. Carm. I. 9. 13.

*ut*] well explained by M. as = *ita ut*. It is closely consecutive after *decorare*.

12. *vero*] certainly he was in Asia [and while there did himself credit].

*Asia*] see on § 11. *habet*. see on § 68.

*Asiae nomen*] see on § 67, *nomen Catonis*.

*laus.....constituta est*] the same put in different ways. This figure is called *expolitio*. cf. on § 55.

*susceptum*] goes in sense with *flagitium*, *deportatum* with *dedecus*. Some monstrous evil deed wrought in Asia, the scandal of which followed him to Rome.

*quidem*] cf. on § 23.

*occupavit*] has forestalled, and so left no room for an ill word.

VI. 13. *saltatorem*] one who is in the habit of dancing (singly). 'a stage-dancer,' 'harlequin.' A great reproach. Z. refers to in Pison. § 22, *quumque ipse nudus in convivio saltaret*, and de Off. I. § 150, III. §§ 75, 93. H. adds pro Deiot. § 26. Add Hor. Sat. II. 1. 24, Plato Menex. 236 d, Xen. Sympos. ii. 17—19, Ov. Fasti v. 338.

*maledici*] the passage quoted generally in explanation of this is pro Caelio § 6, *aliud est male dicere, aliud accusare. accusatio crimen desiderat, rem ut definiat, hominem ut notet, argumento probet, teste confirmet: maledictio autem nihil habet propositi praeter contumeliam, quae si petulantius iactatur, convicium, si facetius, urbanitas nominatur.* 'an abusive scoffer.'

*Marce*] so *Servi*, § 9, etc., but it may be better with Z. to follow MS. Lag. 9 in reading *M. Cato*, as the familiarity of '*Marce*' addressed to Cato is at least unlikely.

convicio, neque temere consulem populi Romani saltatorem vocare, sed circumspicere, quibus praeterea vitiis adfectum esse necesse sit eum, cui vere istud obici possit. nemo enim fere saltat sobrius, nisi forte insanit, neque in solitudine neque in convivio moderato atque honesto: tempestivi convivii, amoeni loci, multarum deliciarum comes est extrema saltatio. tu mihi arripis hoc, quod necesse est omnium vitiorum esse postremum, relinquis illa, quibus remotis hoc vitium omnino esse non potest. nullum turpe convivium, non amor, non comissatio, non libido, non sumptus ostenditur; et cum ea non reperiantur, quae voluptatis nomen habent quamquam vitiosa sunt, in quo ipsam luxuriam reperire non potes, in eo
14 te umbram luxuriae reperturum putas? nihil igitur in vitam L. Murenae dici potest, nihil, inquam, omnino. iudicio sic a me consul designatus defenditur, ut eius nulla fraus, nulla avaritia, nulla perfidia, nulla crudelitas, nullum petulans dictum in vita proferatur. bene habet, iacta sunt fundamenta defensionis: nondum enim nostris laudibus, quibus utar postea, sed prope inimicorum confessione virum bonum atque integrum

*convicio*] squabble. 'set-to.' Of an exchange of abuse. cf. pro Archia § 12, *aures convicio defessae.* Hor. Sat. I. 5. 52 foll. will illustrate the vulgar jesting of the *scurrae*, or 'diners-out.'

*tempestivi*] i. e. begun before the ninth hour, the usual time of the *cena* (Mart. IV. 8. 6, *imperat instructos frangere nona toros*) like Marius in Juven. I. 49, who *ab octava bibit*, and Nero in Suet. Ner. 27, Tac. Ann. XIV. 2.

*mihi*] dat. ethicus, as in §§ 21, 74. H. *arripis.* cf. on § 62.

*comissatio*] feeding after dinner, almost 'dessert,' implying that the guests then 'take wine.' Sueton. Dom. 21, says *convivabatur frequenter ac large, sed paene raptim; certe non ultra solis occasum, nec ut postea comissaretur.*

*voluptatis nomen habent*] 'are called pleasure,' not implying that *it is the right* name. Z. cf. pro Rabir. Post. § 28. See on § 67.

*umbram*]=*comitem assiduam.* H. Z cf. in Pison. § 57, *omnes umbras etiam falsae gloriae*, adding that there is probably in this passage a play on the sense of 'a guest introduced by a guest,' for which cf. Hor. Sat. II. 8. 22, Epist. I. 5. 28.

14. *inquam*] 'I repeat.' *in vitam. in* here (not always) = against.

*iudicio*] on his trial, 'at the bar,' opp. to *in vita* = *in reprehensione vitae* § 11. I follow here the reading of Z. after the MSS.

*sic....ut*] in such circumstances that.....*dictum* = 'jest.' See Prof. Mayor on Phil. II. § 42.

*bene habet*] This *simulatio* is quoted with approval, Quintil. IX. ii. 26.

*confessione*] he has shewn their statements to be groundless; and they have no more charges of this kind to bring, Hence H. well remarks that Cicero's words are strongly exaggerated.

hominem defendimus. quo constituto facilior est mihi aditus ad contentionem dignitatis, quae pars altera fuit accusationis.

VII. summam video esse in te, Ser. Sulpici, dignitatem 15
generis, integritatis,, industriae ceterorumque ornamentorum omnium, quibus fretum ad consulatus petitionem adgredi par est. paria cognosco esse ista in L. Murena atque ita paria, ut neque ipse dignitate *a te* vinci potuerit neque te dignitate superarit. contempsisti L. Murenae genus, extulisti tuum. quo loco si tibi hoc sumis, nisi qui patricius sit, neminem bono esse genere natum, facis ut rursus plebes in Aventinum sevocanda esse videatur. sin autem sunt amplae et honestae familiae plebeiae, et proavus L. Murenae et avus praetor fuit et pater, cum amplissime atque honestissime ex praetura triumphasset, hoc faciliorem huic gradum consulatus adipiscendi reliquit, quod is iam patri debitus a filio petebatur. tua 16
vero nobilitas, Servi Sulpici, tametsi summa est, tamen hominibus litteratis et historicis est notior, populo vero et suffraga-

*virum.....hominem*] sc. Murena as a public person and in his private life. So in § 16.

I believe that the ablatives *laudibus* and *confessione* are to be compared with such as *mea sententia, omnium testimonio*, etc., Madv. § 255, obs. 3. 'not to forestall the praises which I shall presently bestow upon Murena, I may almost say that the unwilling admissions of his adversaries lead us to think my client a worthy citizen and a man of unsullied character.'

*contentionem*] see on § 11.

vii. 15. *loco*] that head of your speech under which you brought in your disparagement of Murena's family.

*in Aventinum*] incorrect, according to Liv. II. 32, unless the reference be to the same thing as the *coetus nocturni* of Liv. IX. 28.

*sin autem.....et*] 'but if it be true that'.....'then I say that both'..... H. cf. § 20, *tamen testata sunt omnia = dico testata esse.*

*proavus, avus*] are not known except from this notice of Cicero.

*fuit*] for the singular, cf. Madv. § 213 a, obs.

*honestissime*] Z. remarks that he is sparing in his praise; for Murena had not had very good success.

*ex praetura*] The rule was, that only consuls, proconsuls, praetors, and pro-praetors had any claim to the honour of a Triumph. Gn. Pompeius was the first in whose favour an exception was made.

16. *tametsi.....tamen*] so de Orat. II. § 120, pro Rosc. Amer. §§ 55, 56, 73, 117, etc. M.

*summa*] The *gens Sulpicia* was one of the oldest patrician *gentes*. cf. Brutus, § 62, Tac. Ann. III. 48, Hist. I. 15, Liv. II. 19.

*litteratis*] The word bears a good sense (γραμματικός). The opposite is *litterator* (γραμματιστής). cf. Catull. XIV. 9, Suetonius de Grammaticis 4 *sunt qui litteratum a litteratore distinguant, ut Graeci grammaticum a grammatista, et illum quidem absolute hunc mediocriter doctum existiment: quorum opinionem Orbilius etiam exemplis confirmat.* Gellius II. 10. 1.

*historicis*] 'antiquarians.' H.

toribus obscurior; pater enim fuit equestri loco, avus nulla inlustri laude celebratus. itaque non ex sermone hominum recenti, sed ex annalium vetustate eruenda memoria est nobilitatis tuae. quare ego te semper in nostrum numerum adgregare soleo, quod virtute industriaque perfecisti, ut cum equitis Romani esses filius, summa tamen amplitudine dignus putarere. nec mihi umquam minus in Q. Pompeio, novo homine et fortissimo viro, virtutis esse visum est quam in homine nobilissimo M. Aemilio. etenim eiusdem animi atque ingenii est posteris suis, quod Pompeius fecit, amplitudinem nominis, quam non acceperit, tradere, et, ut Scaurus, memoriam prope intermortuam generis sui virtute renovare. VIII.
17 quamquam ego iam putabam, iudices, multis viris fortibus ne ignobilitas generis obiceretur, meo labore esse perfectum, qui non modo Curiis, Catonibus, Pompeiis, antiquis illis fortissimis viris, sed his recentibus, Mariis et Didiis et Caeliis, commemorandis iacebant. cum vero ego tanto intervallo claustra

rightly, I think. So Pliny called his great work of research *Naturalis Historia*. Another word used in the same sense by Tacitus is *periti*.

*suffragatoribus*] 'canvassers.' So § 44. See note on § 71.

*equestri loco*] *i. e.* he had filled no office, and so had not attained to a seat in the Senate.

*nulla....celebratus*] probably he was a senator, but had not won curule honours.

*ex annalium vetustate*] 'from the musty tomes of our records.' H. well compares § 10, *pro amici periculo*, 'for a friend in danger.' Add § 30, *simulatio prudentiae*.

*nostrum*] sc. of *novi homines*. H.

*summa*] sc. the consulship, which he was thought to deserve, though he failed to get it.

*Q. Pompeius Rufus*, consul 141 B.C., censor 131 B.C., first brought the consulship into the *gens Pompeia*. See II in Verr. v. § 181, Brutus § 96, Liv. Epit. 59, Velleius II. 21. 4.

*M. Aemilius Scaurus*] consul 115 B.C., censor 109 B.C., and chosen *princeps senatus* 115 B.C. Asconius tells us that for three generations preceding him the family had been under a cloud, so that he was no better off than a *novus homo*. cf. pro Scauro 4 a.

*quam non acceperit*] the subject to be supplied is 'he' or 'one,' as in de Fin. III. § 70, *detrahere quid de aliquo, quod sibi assumat*. T.

VIII. 17. *Curiis*] M'. Curius Dentatus, conqueror of the Samnites and of Pyrrhus, was consul B.C. 290, 275, 274.

*Catonibus*] not *Porciis*, as it was the Cato family that had founded the *nobilitas* of the *gens Porcia*. M. Porcius Cato, afterwards called the Censor, was consul B.C. 195.

*Pompeiis*] see on § 16.

*Mariis*] G. Marius, conqueror of the Teutones, &c., was consul B.C. 107, 104, 103, 102, 101, 100, 86.

*Didiis*] T. Didius was consul B.C. 98.

*Caeliis*] G. Caelius Caldus, consul B.C. 94.

*commemorandis*] = *quamvis Curios etc. commemorarent*. cf. de Off. I. § 5, *quis est enim, qui nullis officii*

ista nobilitatis refregissem, ut aditus ad consulatum posthac, sicut apud maiores nostros fuit, non magis nobilitati quam virtuti pateret, non arbitrabar, cum ex familia vetere et inlustri consul designatus ab equitis Romani filio, consule, defenderetur, de generis novitate accusatores esse dicturos. etenim mihi ipsi accidit, ut cum duobus patriciis, altero improbissimo atque audacissimo, altero modestissimo atque optimo viro, peterem; superavi tamen dignitate Catilinam, gratia Galbam. quodsi id crimen homini novo esse deberet, profecto mihi neque inimici neque invidi defuissent. omittamus igitur de 18
genere dicere, cuius est magna in utroque dignitas: videamus cetera.

'quaesturam una petiit et sum ego factus prior.' non est respondendum ad omnia. neque enim vestrum quemquam fugit, cum multi pares dignitate fiant, unus autem primum *locum* solus possit obtinere, non eundem esse ordinem dignitatis et renuntiationis, propterea quod renuntiatio gradus habet, dignitas autem est persaepe eadem omnium. sed quaestura utriusque propemodum pari momento sortis fuit. habuit hic

*praeceptis tradendis philosophum se audeat dicere?* Madv. § 416 obs. 1. *iacebant.* were yet *ignobiles*, cf. de Off. III. § 79, *cum iam septimum annum post praeturam iaceret.* 'Men whom not even the mention of the .....could rescue from obscurity.'

*tanto...refregissem*] de leg. agrar. II. § 3 is compared with this.

*claustra*] for metaphor cf. Plin. Ep. II. 14. 4, *nunc refractis pudoris et reverentiae claustris omnia patent omnibus.*

*apud maiores*] since 366 B.C., cf. Liv. VII. 1. T.

*equitis Romani*] cf. Juv. VIII. 237 foll., *hic novus Arpinas ignobilis et modo Romae municipalis eques.*

*novitate*] *generis* not *hominis* (for Murena was no *homo novus*, cf. § 15). Sulpicius might speak of this in contrast to the antiquity of his own family. H. Z. prefers to read with MS. Lag. 9 *nobilitate.*

*duobus*] viz., L. Sergius Catilina, P. Sulpicius Galba. For the latter's canvass cf. ad Atticum I. 1, § 1.

*id*] the defeat of a patrician. T.

18. *cetera*] these are, (1) quaestorship, § 18; (2) presence and absence, peace and war, §§ 19—34; (3) praetorship, §§ 35—42; (4) candidature for the consulship §§ 43—53.

*factus prior*] i. e. I got the required number of votes (18 out of 35 tribes) before Murena, and hence according to custom was returned elected before him. So *fiant*, 'are elected,' cf. § 50, *factus*, § 45, *faciam.*

*locum*] Mommsen's conjecture. Z with MSS. *primum* only, or (see Gellius X. 1, 6) *primo.*

*pari momento sortis*] 'was about as lucky for one as the other.' *momentum* = what turns the scale, cf. Lucan, IV. 819, *momentumque fuit mutatus Curio rerum.* Z. gives another instance of the ablative (? locative), de Invent. II. § 77; but the gen. *magni momenti est*, is common. cf. on § 3.

lege Titia provinciam tacitam et quietam, tu illam, cui, cum quaestores sortiuntur, etiam adclamari solet, Ostiensem, non tam gratiosam et inlustrem quam negotiosam et molestam. consedit utriusque nomen in quaestura; nullum enim vobis sors campum dedit, in quo excurrere virtus cognoscique posset.

19 IX. reliqui temporis spatium in contentionem vocatur, ab utroque dissimillima ratione tractatum. Servius hic nobiscum hanc urbanam militiam respondendi, scribendi, cavendi, plenam sollicitudinis ac stomachi, secutus est: ius civile didicit; multum vigilavit laboravit, praesto multis fuit, multorum stultitiam perpessus est, arrogantiam pertulit, difficultatem exsorbuit: vixit ad aliorum arbitrium, non ad suum. magna laus et grata omnibus, unum hominem elaborare in ea scientia,

*lege Titia*] is supposed to have dealt with the duties assigned to the various quaestors and the distribution of these charges (*provinciae*) among the quaestors of the year. But nothing is known concerning it.

*tacitam et quietam*] probably *Calenam*. Both Murena and Sulpicius had a *provincia Italica;* there were 4 of these, viz., (1) *Ostiensis*, cf. pro Sest. § 39, Suet. Claud. 24. (2) *Gallica*, cf. Plut. Sertor. 4, Suet. Claud. 24. (3) *Calena*, cf. Tac. Ann. IV. 27. (4) *aquaria* or *Puteolana*, cf. in Vatin. § 12. Z. [but in Tac. Ann. IV. 27 Halm keeps the MS. reading *calles*.]

*adclamari*] seems to be always used in unfavourable sense by Cicero.

*negotiosam*] the charge of the public corn-supply.

*consedit*] opposed to *excurrere*. cf. Orator, § 96, *in ea mediocritate consedit*. 'Passed out of the public view in the routine duties of the office.' *campum*. cf. ad Att. V. 15. 1, *non habet satis magnum campum ille tibi non ignotus cursus animi*.

ix. 19. *reliqui temporis*] this is treated in §§ 19—53. See on § 18.

*tractatum*] possibly a stage-metaphor, cf. pro Rosc. Com. § 20, *personam tractare*. Z., who with MS. Lag. 9 omits *est* after *tractatum*. [H. adds auct. ad Herenn. IV. § 33, *vitam honeste tractatam*.] Better 'employed,' 'applied.' Nägelsb. Lat. Stil. § 110, 3.

*urbanam militiam*] a playful hit at the sedentary life of Sulpicius, as compared with the campaigns of Murena. cf. § 38.

*respondendi*] giving legal opinions, as in § 9.

*scribendi*] drawing up legal instruments (such as wills, contracts, pleadings), cf. § 28, de Or. II. § 24.

*cavendi*] taking care that a client is not led unwarily into a ruinous contract, or an informal mode of pleading, cf. § 22.

*didicit*] i.e. he devoted himself now wholly to jurisprudence and gave up oratory. Z. cf. on § 29.

*praesto fuit*] 'served many clients.'

*difficultatem*] cf. *difficiles*, Cat. mai. § 7. 'Wilful obstinacy,' or better 'cantankerousness.'

*exsorbuit*] 'swallowed,' i.e. put up with. So *sorbere*, ad Q. fr. III. 9 § 5, and often *devorare*.

*arbitrium*] cf. Propert. V. 1. 143, *illius arbitrio noctem lucemque videbis*.

*laus*] 'merit.'

*elaborare in*] so de Off. I. § 3, and often in Cic.

*unum*] purely rhetorical antithesis to *multis*. Z.

quae sit multis profutura. quid Murena interea? fortissimo et 20
sapientissimo viro, summo imperatori, legatus L. Lucullo fuit:
qua in legatione duxit exercitum, signa contulit, manum con-
seruit, magnas copias hostium fudit, urbes partim vi, partim
obsidione cepit, Asiam istam refertam et eandem delicatam
sic obiit, ut in ea neque avaritiae neque luxuriae vestigium
reliquerit; maximo in bello sic est versatus, ut hic multas res
et magnas sine imperatore gesserit, nullam sine hoc imperator.
atque haec quamquam praesente L. Lucullo loquar, tamen, ne
ab ipso propter periculum nostrum concessam videamur habere
licentiam fingendi, publicis litteris testata sunt omnia, quibus
L. Lucullus tantum laudis impertit, quantum neque ambitiosus
imperator neque invidus tribuere alteri in communicanda glo-
ria debuit. summa in utroque est honestas, summa dignitas, 21
quam ego, si mihi per Servium liceat, pari atque in eadem
laude ponam. sed non licet: agitat rem militarem, insectatur
totam hanc legationem, assiduitatis et operarum harum coti-
dianarum putat esse consulatum. apud exercitum mihi fueris,

20. *sapientissimo*] so in de imp. Gn. Pomp. § 26. M.

*refertam*] absolutely as in de Orat. I. § 161, de Republ. II. § 44. H. This marks Murena's want of greed, as *delicatam* does that of luxuriousness. Z.

*quamquam...loquar*] though there is no doubt that the usage of Cicero forbids this construction, I hold that Z. is right in bowing to overwhelming MSS. authority and refusing to read *loquor*. [See Madv. de Fin. III. § 70, note,] he explains it by a supposed change of constr., viz., that Cicero meant to go on with *tamen literas Luculli publicas adferendas esse putavi*, which T. well characterizes as an arbitrary proceeding. It seems to me that either the MSS. are wrong, or that we must admit the Ciceronian use of the subj. with *quamquam* in the protasis of *oratio recta*.

*tamen...testata sunt*] see on § 15.

*praesente*] he lent his support to the defendant by appearing in court as a backer (*advocatus*), cf. on § 9.

*nostrum*] he puts himself in his client's place. cf. *nobis* § 72.

*publicis litteris*] 'official despatches.'

*ambitiosus*...etc.] 'more praise than need have been bestowed on a subordinate by any commander that either courted glory himself or grudged it to others.'

21. *pari*] so MSS. the prepos. *in* is rather out of place. H. accepts Bake's conjecture *parem*.

*agitat*] makes it his quarry, cf. de Leg. I. § 40, *ut eos agitent insectenturque furiae*.

*operarum*] 'jobs,' perhaps with a touch of the sense 'day-labourers,' as Z. thinks. The plural is certainly contemptuous; in § 36 the singular is used.

*harum*]=*forensium*.

*apud...contendas*?] loosely quoted by Quintil. v. xiii. 27. Here I have taken the MS. reading, but the punctuation is my own. cf. Madv. § 438, and for *fueris* subj. § 353, pro Sulla § 44.

*mihi*] dat. ethicus, cf. § 13.

inquit, tot annos, forum non attigeris? afueris tam diu, ut cum longo intervallo veneris, cum his, qui in foro habitarint, de dignitate contendas? primum ista nostra assiduitas, Servi, nescis quantum interdum adferat hominibus fastidii, quantum satietatis. mihi quidem vehementer expedit positam in oculis esse gratiam, sed tamen ego mei satietatem magno meo labore superavi, et tu idem fortasse; verum tamen utrique nostrum
22 desiderium nihil obfuisset. sed ut hoc omisso ad studiorum atque artium contentionem revertamur, qui potes dubitare quin ad consulatum adipiscendum multo plus adferat dignitatis rei militaris [quam juris civilis] gloria? vigilas tu de nocte, ut tuis consultoribus respondeas, ille, ut eo, quo intendit, mature cum exercitu perveniat: te gallorum, illum bucinarum cantus exsuscitat: tu actionem instituis, ille aciem instruit: tu caves ne tui consultores, ille ne urbes aut castra capiantur:

*tot annos*] goes with *fueris* etc., preceding, but has its effect also on the following coordinate interrogation. 'Am I,' says he, 'to have you spending all those years in the field, while you neglect the forum? being all that time out of Rome, just to return ever so long after and put your claims in competition with those of men who have made the forum their house and home?'

*ut*] as though Murena had stayed away on purpose, and put forward his absence as a claim to office.

*habitarint*] H. cf. Brutus § 305, *et hi quidem habitabant in Rostris.* de Orat. I. § 264, *is qui habitaret in subselliis.*

*primum*] 'to begin with.'

*expedit*] so MSS., and it is far better than Lambinus' *expediit.*

*idem*] so MSS., sc. *fecisti*, as often.

*verum tamen*] catches up *sed tamen* sup., and gives the same idea a different turn, 'but as I say,'... cf. ad Attic. I. 10, § 1, II in Verr. III. § 4.

*desiderium*] H. cf. ad Attic. II. 5, § 1. 'It would not have been such a bad thing for either of us, had we been missed awhile from our haunts.'

22. *quam iuris civilis*] If these words are genuine, *gloria* is ironically referred to them. But MS. Lag. 9 omits them, and so Z. plausibly.

*vigilas* &c.] quoted by Quint. IX. ii. 100, iii. 32, with slight variations.

*de nocte*] 'before break of day,' cf. § 69.

*consultoribus*] For the pressure of these on a *iuris consultus*, cf. de Orat. I. §§ 199, 200, Phil. VIII. § 31.

*gallorum*] M. well compares Hor. Sat. I. 1. 9, *agricolam laudat iuris legumque peritus, sub galli cantum consultor ubi ostia pulsat.*

*instituis...instruit*] Notice the play on the words: 'while you are setting on foot a pleading, he is setting in array an army.' cf. Phil. IX. § 11 (also of Sulpicius), *neque instituere litium actiones malebat quam controversias tollere.* For the technical *actiones* (verbal processes) cf. on § 29.

*capiantur*] 'be taken unawares,' a neutral word, applying to the court and the field alike. cf. Acad. Pr. II. § 66, *cavere ne capiatur*, and note on *cavendi*, sup. § 19.

ille tenet et scit, ut hostium copiae, tu, ut aquae pluviae arceantur: ille exercitatus est in propagandis finibus, tu in regendis. ac nimirum—dicendum est enim quod sentio—rei militaris virtus praestat ceteris omnibus. x. haec nomen populo Romano, haec huic urbi aeternam gloriam peperit, haec orbem terrarum parere huic imperio coegit: omnes urbanae res, omnia haec nostra praeclara studia et haec forensis laus et industria latent in tutela ac praesidio bellicae virtutis. simul atque increpuit suspicio tumultus, artes ilico nostrae conticescunt.

et quoniam mihi videris istam scientiam iuris tamquam 23
filiolam osculari tuam, non patiar te diutius in tanto errore versari, ut istud nescio quid, quod tanto opere didicisti, praeclarum aliquid esse arbitrere. aliis ego te virtutibus, continentiae, gravitatis, iustitiae, fidei, ceteris omnibus, consulatu et omni honore semper dignissimum iudicavi: quod quidem ius civile didicisti, non dicam, operam perdidisti, sed illud dicam, nullam esse in ista disciplina munitam ad consulatum viam,

*tenet*] sc. *mente*, cf. § 26 *tenebant*, and de Fin. III. § 44, *quod idem Peripatetici non tenent.*

*aquae pluviae*] i.e. you know how to set on foot in right form an *actio aquae pluviae arcendae.* No proprietor had a right to build a house so that the rain-water from the roof fell on another man's ground, unless he had the benefit of a servitude, called *stillicidii servitus*, or *ius stillicidii*, cf. Top. § 43, de Orat. I. § 173, Lord Mackenzie, Roman Law, pt. II. c. 5. From a quotation in the Digest, it has been inferred that Sulpicius had written some treatise on this point of law.

*propagandis finibus*] sc. of the empire, 'frontiers.'

*regendis*] of estates, 'in settling questions of boundary-lines.'

x. *latent*] cf. Liv. XXXIV. 9, *sub umbra Romanae amicitiae latebant.* 'lie safe and sound.'

*in tutela*] like wards (*pupilli*) in charge of a guardian (*tutor*).

*increpuit*] at the faintest alarm of war, cf. in Catil. I. § 18, in Pis. § 99.

*tumultus*] 'a war in Italy,' as usually. H. well refers to Phil. V. § 31, *tumultum decerni, iustitium edici, saga sumi dico oportere.* The word is fully discussed in Phil. VIII. §§ 2—4.

23. *osculari*] 'to hug,' 'fondle.' Z. cf. ad Fam. I. 9, § 10.

*didicisti*] so MSS. 'that you have at your fingers' ends by this time,' better than the conjecture *dilexisti.*

*virtutibus*] abl. of cause, cf. de Orat. III. § 199, *quadam mediocritate laudatur*, it is here strangely used close to the abl. *consulatu* &c., depending on *dignissimum.*

*continentiae, gravitatis, &c.*] Genitives of more specific definition, cf. Madv. § 286 obs. 2: they are used instead of an apposition, and should be so rendered in English; so with *nomen* §§ 13, 67.

*quidem*] introduces the opposition, as in § 12, *maledicto quidem, &c.*

omnes enim artes, quae nobis populi Romani studia concilient, et admirabilem dignitatem et pergratam utilitatem debent ha-
24 bere. xi. summa dignitas est in his, qui militari laude antecellunt: omnia enim, quae sunt in imperio et in statu civitatis, ab his defendi et firmari putantur; summa etiam utilitas, si quidem eorum consilio et periculo cum re publica, tum etiam nostris rebus perfrui possumus. gravis etiam illa est et plena dignitatis dicendi facultas, quae saepe valuit in consule deligendo, posse consilio atque oratione et senatus et populi et eorum, qui res iudicant, mentes permovere. quaeritur consul, qui dicendo nonnumquam comprimat tribunicios furores, qui concitatum populum flectat, qui largitioni resistat. non mirum, si ob hanc facultatem homines saepe etiam non nobiles consulatum consecuti sunt, praesertim cum haec eadem res plurimas gratias, firmissimas amicitias, maxima studia pariat: quorum in isto vestro artificio, Sulpici, nihil est. primum

*artes*] 'pursuits,' 'professions,' as in § 22.

*quae concilient*] 'such as to win the support of'...the MSS. have the indicative, 'which generally win'... and I cannot see why this should not stand.

xi. 24. *his*] has better MSS. authority than *iis*; 'our friends who'... speaking to Sulpicius and indicating Murena. cf. on § 3.

*statu civitatis*] = *quae ad salutem civitatis pertinent*, M. 'All that concerns the assured permanence of the State,' H., who cf. pro Sestio § 1: 'The position of our State in the world,' in relation to others; Z. and T., who cf. de Rep. II. § 2, *praestare nostrae civitatis statum ceteris civitatibus*, pro Flacco § 3, *totum statum civitatis*. But in de Rep. II. § 2 it clearly='our constitution,' and I believe the same to be the meaning in pro Sestio § 1 and pro Flacco § 3. Is it not also here? One consul was at this very time away, putting down the Catilinarian insurrection. 'For all things within the sphere of our rule abroad *or our constitution at home* are felt to get their protection and maintenance from these.'

*consilio*] so § 33. '*vis consili expers*' comes to a bad end, Hor. Carm. III. 4. 65; 'tact.'

*posse*] the subject of *valuit*, in apposition to *facultas*. Z. For the sentiment H. cf. de Orat. I. § 30. *valuit*, 'has turned the day.'

*consilio, &c.*] 'by tact and power of speaking.'

*furores...largitioni*] 'able to put down hot-headed tribunes, to..., to stand out against a proposed bounty.' *largitio*, here the distribution of lands or corn to the people by a *lex agraria* or *frumentaria*. He is thinking of his own speeches *de lege agrariâ contra Rullum*, delivered early in this very year. cf. § 80.

*non nobiles*] such as Cicero himself.

*gratias*] 'obligations,' under which the eloquent counsel lays many clients and their friends. For plural cf. § 42.

*artificio*] 'technical dexterity,' 'knack.' Depreciatory, cf. on § 29.

dignitas in tam tenui scientia non potest esse: res enim sunt 25
parvae, prope in singulis litteris atque interpunctionibus verborum occupatae. deinde, etiamsi quid apud maiores nostros fuit in isto studio admirationis, id enuntiatis vestris mysteriis totum est contemptum et abiectum. posset agi lege necne, pauci quondam sciebant; fastos enim vulgo non habebant: erant in magna potentia qui consulebantur, a quibus etiam dies tamquam a Chaldaeis petebatur. inventus est scriba quidam Cn. Flavius, qui cornicum oculos confixerit et singulis diebus ediscendis fastos populo proposuerit et ab ipsis causis iure consultorum sapientiam compilarit. Itaque irati illi, quod sunt veriti, ne dierum ratione pervulgata et cognita sine sua opera lege agi posset, verba quaedam composuerunt, ut omnibus in rebus ipsi interessent.

25. *dignitas*, etc.] Cicero speaks more highly of jurisprudence in de Orat. I. §§ 234—236, more highly still in the speech pro Caecina.

*tenui*] 'paltry,' perhaps with a notion of 'hair-splitting.' Hor. A. P. 46.

*res*] 'the matter,' *occupatae in*, 'taken up with.'

*litteris*] sc. questions of spelling, cf. *anceps syllabarum*, de Orat. I. § 236.

*interpunctionibus verborum*] such as the questions whether a man was to be buried *in culto loco* or *inculto loco*, and whether a man had left his whole property to Λέων or his property to Παντα λέων (πάντα Λέοντι or Παντα λέοντι), given by Quint. VII. ix. 5, 6; many such ambiguities, observes Z., are found in laws.

*agi lege*] 'whether actions at law could be brought or no,' cf. Div. in Caecil. § 19, i.e. whether a certain day belonged to the *dies fasti* or *nefasti*, cf. Ovid, Fasti, I. 45 foll.

*fastos*] 'calendar,' with the days marked F. or N.

*qui consulebantur*] sc. the *pontifices*, in whose hands the regulation of the calendar lay, and who were the sole jurisconsults until 304 B.C.

*a Chaldaeis*] as an astrologer is entreated to point out a 'lucky' day.

*Cn. Flavius*] cf. de Orat. I. § 186, ad Att. VI. 1, § 8, Plin. H. N. XXXIII. 17.

*cornicum oculos*] i.e. took in knowing men; a proverb, cf. pro Flacco § 46, and Propert. V. 5. 16, where it refers to a charm for blinding even the watchful. The crow was thought to be especially fond of pecking out the eyes of other animals.

*ediscendis*] by learning the days one by one, i.e. whether they were *fasti* or *nefasti*. So Pliny, *Appi Caeci hortatu exceperat eos dies consultando adsidue sagaci ingenio*, H. has *discendis*, dative, 'for learning.'

*ab ipsis causis*] sc. *consultando adsidue*, as Pliny says; 'from the individual cases in court.' He seems to have noted not merely the day on which the case was tried, but also the form of pleading [*actiones*, Cic. ll. cc. sup.].

*compilarit*] 'pilfered,' got together by hook or by crook.'

*verba*] sc. they made the forms of pleading more and more intricate.

26 XII. cum hoc fieri bellissime posset: 'fundus Sabinus meus est': 'immo meus,' deinde iudicium: noluerunt. fundus, inquit, qui est in agro, qui Sabinus vocatur. satis verbose: cedo, quid postea? eum ego ex iure Quiritium meum esse aio. quid tum? inde ibi ego te ex iure manum consertum voco. quid huic tam loquaciter litigioso responderet ille, unde petebatur, non habebat. transit idem iure consultus, tibicinis Latini modo: unde tu me,

xii. 26. Cicero gives an instance of legal formalities, a *lis vindiciarum*, or *actio rei vindicandae*. It was one of those conducted with a legal wager or stake (*actio sacramenti*). The defendant staked a sum of money on the justice of his refusal to give up the property (*sponsio*), the plaintiff accepting the wager to prove the justice of his claim (*restipulatio*). Either party gave security to the praetor for the money, and the loser forfeited the fixed sum to the State. Gaius, IV. 13. These *actiones* were intended to supplement the defective old law.

*bellissime*] conversational, like Eng. 'nicely.' 'Though it might have been done very nicely thus, "the Sabine estate belongs to me." "No, to me," and then the trial and decision; they would not have it so,' i.e. the *iuris consulti*.

*inquit*] 'says the jurist.'

*ex iure Quiritium*] so Gaius IV. 16. 'in accordance with the legal rights of a Roman citizen.' Opposed to *in bonis esse*. cf. Gaius II. 40, 41,. . . . *ut alius possit esse ex iure Quiritium dominus, alius in bonis habere. nam si tibi rem mancipi neque mancipavero neque in iure cessero, sed tantum tradidero, in bonis quidem tuis ea res efficitur, ex iure Quiritium vero mea permanebit, donec tu eam possidendo usucapias.*

*inde*] 'for that reason I call you from the praetor's tribunal to join hands with me on the said estate.' *inde.* sc. *quia meum esse aio.* cf. *unde...inde* inf.

*ex iure*] We learn from Gellius, XX. 10 §§ 6—10, that the solemn joining of hands and claiming of a disputed property was of old performed on the property in the presence of the praetor; for the XII tables said *si qui in iure manum conserunt*. As the empire of Rome grew in Italy and the praetors were more and more busied with their juridical functions, they found it too much of a burden to go far and near, settling questions of property on the spot; hence by tacit consent the custom was changed; the parties, instead of joining hands *in iure* (i.e. before the praetor), went on challenge to the property in question *ex iure* (i.e. from the presence of the praetor), joined hands there, and brought back some piece or other into court, e.g. a clod, to which they laid claim as representing the property. See Appendix E.

*loquaciter*] with adj. cf. de Off. III. § 112, *acerbe severus*, Tusc. D. V. § 6, *impie ingratus*.

*unde*] sc. *a quo fundus petebatur*. 'the defendant knew not how to answer such a chattering pettifogger,' the bombastic forms are too much for him.

*transit*] changes sides and prompts the defendant, as a flute-player accompanies first one singer, then another. Quint. VII. i. 51, has adopted this simile.

*Latini*] The story in Liv. IX. 30 shews that they were not Roman citizens. Thus the *haruspices* were Etruscans. Ern.

*unde.....inde.*] cf. on *inde* sup.

inquit, ex iure manum consertum vocasti, inde ibi ego te revoco. praetor interea ne pulchrum se ac beatum putaret atque aliquid ipse sua sponte loqueretur, ei quoque carmen compositum est, cum ceteris rebus absurdum, tum vero in illo: suis utrisque superstitibus praesentibus istam viam dico; ite viam. praesto aderat sapiens ille, qui inire viam doceret. redite viam: eodem duce redibant. haec iam tum apud illos barbatos ridicula, credo, videbantur, homines, cum recte atque in loco constitissent, iuberi abire, ut, unde abissent, eodem statim redirent. isdem ineptiis fucata sunt illa omnia: quando te in iure conspicio, et haec: anne tu dicas, qua ex causa vindicaveris? quae dum

*revoco*] 'I call in turn.' Of invitations, pro Rosc. Amer. § 52. Here, 'I return your challenge.'

*pulchrum*] Z cf. de Nat. Deor. I. § 114, *deum nihil aliud in omni aeternitate nisi 'mihi pulchre est' et 'ego beatus sum' cogitantem.* 'For fear that, while all this was going on, the praetor might fancy himself a fine lucky fellow, and bring out some remark on his own account, a set form of words was made up for him also.'

*superstitibus*] = *testibus praesentibus.* cf. Festus, p. 305 M. Hence perhaps, as H. remarks, *praesentibus* here is a gloss. If not, it must, as Z. says, be used of time and *superstitibus* of place. 'Either party having their witnesses here now present.' *utrisque* is the dative.

*istam*] sc. to the property. They did not really go, but moved off a few steps.

*barbatos*] cf. pro Sestio § 19, *unum aliquem ex barbatis illis, exemplum imperii veteris, imaginem antiquitatis.* The custom of shaving was introduced into Italy B. C. 300. See Prof. Mayor's note on Juven. XVI. 31, *dignum barba dignumque capillis maiorum.*

*in loco*] so Tac. Ann. II. 4. *loco* is also used thus.

*quando te in iure conspicio*] It went on *postulo anne fuas auctor.* 'As I see you here in court, I want to know whether you are responsible for the title.' This seems to be some part of the formal procedure in a suit concerning a disputed title, and is quoted again in pro Caecina § 54, *actio est in auctorem praesentem his verbis; quandoque te in iure conspicio.*

*anne tu dicas*] Gaius, IV. 16, has *postulo, anne.....*, but the text there is corrupt, and Z., with great plausibility, maintains that the MSS. *postul* has been wrongly completed. *anne dicas* he makes = *numquid aliud an dicturus es;* but I am not sure that I understand this. It is a part of the proceeding in a case of *vindicatio*, as above. The clod was brought into court, and was claimed by either party in turn, as above, adding *sicut dixi, ecce tibi, vindictam imposui.* This was a *festuca* or wand, symbolizing the *hasta* or spear, the Roman sign of ownership. Then the praetor told both to let the thing go (*mittite ambo*). The first claimant then asked the defendant (as here), why he had laid claim to the thing; the latter answered *ius peregi, sicut vindictam imposui.* A went on *quando tu iniuria vindicavisti* (since your claim is a wrongful one), *D aeris sacramento te provoco* [or *L aeris* etc.], and B rejoined *similiter* ego te. The proceedings

erant occulta, necessario ab eis, qui ea tenebant, petebantur; postea vero pervulgata atque in manibus iactata et excussa inanissima prudentiae reperta sunt, fraudis autem et stultitiae
27 plenissima. nam cum permulta praeclare legibus essent constituta, ea iure consultorum ingeniis pleraque corrupta et depravata sunt. mulieres omnes propter infirmitatem consilii maiores in tutorum potestate esse voluerunt: hi invenerunt genera tutorum, quae potestate mulierum continerentur. sacra interire illi noluerunt: horum ingenio senes ad coemptiones faciendas interimendorum sacrorum causa reperti sunt. in omni denique iure civili aequitatem reliquerunt, verba ipsa

then took the form of a personal action, founded on the alleged neglect of an obligation, and it was regularly tried by a *iudex* or *arbiter*. This was *in iudicio*, as opposed to *in iure*, before the magistrate. See Lord Mackenzie, Rom. Law, part V. cc. 2, 3; Gaius, IV. 5; and for distinction between civil and criminal causes, Mommsen, book IV. c. 10.

*tenebant*] 'knew,' 'were up in them.' cf. *tenet* § 22. Or perhaps 'were exclusively in possession of them.' cf. § 25.

*excussa*] 'shaken out,' 'examined.' cf. de Off. III, § 81; Tusc. Disp. I. § 88.

*fraudis*] 'chicanery' or 'pitfalls,' as one who pleaded informally *causa cadebat*. cf. on § 9.

27. *iure consultorum*] This rare form is certainly found here.

*infirmitatem consilii*] so Gaius, I. 144, *propter animi levitatem*. Ulp. XI. 1, *propter sexus infirmitatem et propter forensium rerum ignorantiam*. But Gaius, I. 190, ridicules this latter theory, which however was not uncommon.

*genera tutorum*] Sometimes a man, instead of appointing by will a guardian for his wife in event of his own decease, gave her in that case the right to choose for herself. Such a guardian was called *tutor optivus*, and would no doubt be chosen as one whom the woman could manage to lead. But the most common way of *shaking off* a disagreeable tutor was this: the woman got her tutor's consent to her making a *coemptio fiduciae causa;* then the *coemptionator* made her over again to some person of her own choice. This latter emancipated her, and then she was only the ward of the man who had emancipated her, her *tutor fiduciarius*. Gaius, I. 114, 115, 166, 195.

*sacra*] sc. *privata*, often great burdens on property at Rome, in honour of the tutelary god of a family or *gens*. In order to ensure their maintenance (*perpetua*), they went with the property. cf. de Legib. II. § 47 foll., Plaut. Capt. 775, *sine sacris hereditatem* = an unencumbered property. Add Orator § 144.

*coemptiones*] The *coemptio* was a symbolic sham-sale, by which a woman passed into the power of some man either *matrimonii causa*, i.e. *in manum mariti sui*, or *fiduciae causa* (transacted either with her husband or some stranger); for instance, if a woman inherited an estate burdened with *sacra*, she *cum sene coemptionem fecit*. He then came into her property, *sacra* included. Then he at once manumitted her, and gave back the property in parcels as *dona*. The old man being poor (in fact chosen as such), when he died, had no property to leave, and the *sacra* fell through for want of heirs. See Gaius, I. 113, 114.

*aequitatem.....tenuerunt*] 'They

tenuerunt, ut, quia in alicuius libris exempli causa id nomen invenerant, putarent, omnes mulieres, quae coemptionem facerent, Gaias vocari. iam illud mihi quidem mirum videri solet, tot homines tam ingeniosos post tot annos etiam nunc statuere non potuisse, utrum diem tertium an perendinum, iudicem an arbitrum, rem an litem dici oporteret. XIII. ita- 28
que, ut dixi, dignitas in ista scientia [consularis] numquam fuit, quae tota ex rebus fictis commenticiisque constaret, gratia vero multo etiam minus. quod enim omnibus patet et aeque promptum est mihi et adversario meo, id esse gratum nullo pacto potest. itaque non modo beneficii collocandi spem, sed etiam illud, quod aliquando fuit, 'licet consulere?' iam perdidistis. sapiens existimari nemo potest in ea prudentia, quae neque extra Romam usquam neque Romae rebus prolatis quidquam valet; peritus ideo nemo haberi potest, quod in eo, quod sciunt omnes, nullo modo possunt inter se discrepare;

have dropped the spirit and held fast to the mere letter.'

*in alicuius libris*] In some treatise on the forms of *coemptio*.

*ut putarent*] I prefer this with Z. and the MSS. 'so as actually to fancy that'..... This is of course mere banter on Cicero's part, as Gaius, Gaia, Titius, Titia, Seius, Seia etc. are legal *personae ficticiae*. Gaia seems to have been generally employed in forms of *coemptio*. Compare 'John Doe' and 'Richard Roe.' See Quint. I. vii. 28.

*iam*] 'now really,' 'upon my word.' cf. Phil. II. § 8, *iam invideo magistro tuo*, ib. § 19.

*non potuisse*] Of course these are merely the usual redundancies of legal caution. *tertium* according to Roman calculation would be=*perendinum*. *arbitrum*, either appointed by the parties, without interference of a magistrate, or by the magistrate after the preliminary hearing *in iure*. cf. on § 26. In this latter sense he was properly called *iudex*. In the XII Tables was '*iudici arbitrove*.'

xiii. 28. [*consularis*]. H. plausibly urges that this is most likely a gloss, as *gratia* is directly opposed to *dignitas*, and in § 25 Cicero says *primum dignitas in tam tenui scientia non potest esse*.

*promptum*] 'ready to hand.' cf. de Or. I. § 237, *prompta defensio*, II in Verr. IV. § 42.

*aliquando*] 'formerly,' i.e. before the days of Flavius.

*licet consulere?*] 'is it allowed to take your opinion?' a formal address to a jurist in the good old days of their power. So in jest Hor. Sat. II. 3. 192, *ergo consulere et mox respondere licebit? consule*.

*prudentia*] H. cf. Corn. Nep. Cimon 2 § 1, *magnam prudentiam quum iuris civilis tum rei militaris*.

*rebus prolatis*] In times of vacation, either (*a*) the regular *iustitium edictum*, or (*b*) caused by tumult and insurrection, or (*c*) generally, on either account. cf. Plaut. Capt. 78, 79, *ubi res prolatae sunt, quom rus homines eunt, semul prolatae res sunt nostris dentibus*.

difficilis autem res ideo non putatur, quod et perpaucis et minime obscuris litteris continetur. itaque, si mihi homini vehementer occupato stomachum moveritis, triduo me iure consultum esse profitebor. etenim quae de scripto aguntur, scripta sunt omnia, neque tamen quidquam tam anguste scriptum est, quo ego non possim 'qua de re agitur' addere: quae consuluntur autem, minimo periculo respondentur. si id quod oportet, responderis, idem videare respondisse, quod Servius, sin aliter, etiam controversum ius nosse et tractare videare.

29 quapropter non solum illa gloria militaris vestris formulis atque actionibus anteponenda est, verum etiam dicendi consuetudo longe et multum isti vestrae exercitationi ad honorem antecellit. itaque mihi videntur plerique initio multo hoc

*difficilis.. ...continetur*] M. well compares de Orat. I. § 192, *omnia sunt enim posita ante oculos, collocata in usu cotidiano, in congressione hominum atque in foro; neque ita multis litteris aut voluminibus magnis continentur.*

*perpaucis litteris*] i.e. *libris.* He is here speaking of the *ius privatum*, which at this time consisted only of (*a*) the XII Tables, (*b*) a few laws, (*c*) the *edicta praetorum*, (*d*) the verbal forms of procedure, such as those noticed above. Z. and H.

*me*] He had studied under the great jurist Q. Mucius Scaevola in his youth, cf. Brutus § 306, and is said to have written a treatise *de iure civili in artem redigendo*, Gellius I. 22. 7.

*de scripto*] sc. the *concepta verba* or *formulae*, Gaius IV. 30.

*scripta sunt*] 'are to be found in the books,' manuals of *formulae.*

*anguste*] 'so closely worded.'

*qua de re agitur*] A regular phrase used in legal forms. cf. Brutus § 275, Topica § 95, Gaius IV. 47.

*respondentur* etc.] 'and as for a legal opinion, you run next to no risk in giving it. Give the proper answer, and it tallies with that of *my learned friend* yonder (bowing to Servius); give a different one, and you have gone so far as to detect a disputed point of law and are for trying an issue on it.'

*quod Servius*] i.e. *recte.* A severe compliment.

*controversum ius*] cf. de Orat. I. § 242, *ius quod ambigitur inter peritissimos*, pro Caec. § 69, *ius varium*, Quint. XII. iii. 8. Add de Off. III. § 91.

*tractare*] to handle, examine.

29. *formulis*] written forms for judicial proceedings, beside which in Cicero's time still existed the old *actiones* (or *legis actiones*), verbal processes according to law. The latter had been productive of great hardship and injustice, and were eventually given up, Gaius IV. 11, 30. For the *formulae* cf. pro Rosc. Com. §§ 24, 25.

*ad honorem*] 'in relation to office,' 'for attaining.' So § 38, *ad famam.*

*plerique*] A hit at Sulpicius' early devotion to oratory, and his later abandonment of it. Cic. says of him, Brutus § 151, that after his return from Rhodes *videtur mihi in secunda arte* (sc. *in iure civili*) *primus esse maluisse quam in prima* (sc. *in eloquentia*) *secundus.* cf. Quint. XII. iii. 9.

maluisse, post, cum id adsequi non potuissent, istuc potissimum sunt delapsi. ut aiunt in Graecis artificibus eos auloedos esse, qui citharoedi fieri non potuerint, sic nonnullos videmus, qui oratores evadere non potuerint, eos ad iuris studium devenire. magnus dicendi labor, magna res, magna dignitas, summa autem gratia: etenim a vobis salubritas quaedam, ab iis, qui dicunt, salus ipsa petitur. deinde vestra responsa atque decreta et evertuntur saepe dicendo et sine defensione oratoris firma esse non possunt. in qua si satis profecissem, parcius de eius laude dicerem: nunc nihil de me dico, sed de iis, qui in dicendo magni sunt aut fuerunt.

XIV. duae sunt artes, quae possunt locare homines in amplissimo gradu dignitatis: una imperatoris, altera oratoris boni; ab hoc enim pacis ornamenta retinentur, ab illo belli pericula repelluntur. ceterae tamen virtutes ipsae per se multum valent, iustitia, fides, pudor, temperantia, quibus te, Servi, excellere omnes intellegunt, sed nunc de studiis ad honorem adpositis, non de insita cuiusque virtute disputo. omnia ista nobis studia de manibus excutiuntur, simul atque aliquis motu novo bellicum canere coepit. etenim, ut ait ingeniosus poëta et auctor valde bonus, proeliis promulgatis pellitur e medio 30

*ut aiunt*, etc.] loosely quoted by Quint. VIII. iii. 79.

*artificibus*] 'artists.' So Gk. τεχνίτης, Ar. Rhet. III. 2. 10. cf. Liv. V. 1, VII. 2, XXXIX. 22.

*citharoedi*] Z. well cf. Quint. I. xii. 3.

*qui.....eos*] cf. §§ 61, 69, 13.

*res*] matter, 'task.'

*autem*] with the last of a string of substantives, laying stress on it.

*gratia*. cf. § 24 fin.

*salubritas*] a sort of healthy condition, opposed to *salus*.

*in qua*] If this be sound, we must refer it to *eloquentia* to be gathered from what precedes: but this seems very awkward on looking closely at the words. Z. emends *quo*.

*nunc*] 'as it is I speak not of myself, but of the famous speakers of the present or the past.'

xiv. 30. *artes*] 'branches of professional skill,' or perhaps 'merits.' cf. § 23.

*tamen valent, sed*] 'I am far from wishing to disparage the great worth of....., but they are not to the point just now, for'.....

*pudor*] 'honour,' as we say. cf. § 64.

*ad honorem adpositis*] 'suited to the attainment of office.' cf. II in Verr. I. § 30, *menses ad agendum maxime appositos*. T.

*motu novo*] 'raising a stir,' i.e. a revolution or invasion.

*auctor*] teacher, authority for a statement. cf. Tusc. D. IV. § 3, where Cato is *gravissimus auctor*, Hor. Carm. I. 28. 14, Juv. X. 30.

*proeliis promulgatis*] A phrase which sounds like a quotation from Ennius, and probably is; *promulgare legem* was to post it up 17 days at least before it was to be voted upon (*in trinum nundinum*). 'When warning of battle is given.'

non solum ista vestra verbosa simulatio prudentiae, sed etiam ipsa illa domina rerum, sapientia: vi geritur res [publica], spernitur orator, non solum odiosus in dicendo ac loquax, verum etiam bonus: horridus miles amatur, vestrum vero studium totum iacet. non ex iure manum consertum, sed ferro, inquit, rem repetunt. quod si ita est, cedat, opinor, Sulpici, forum castris, otium militiae, stilus gladio, umbra soli: sit denique in civitate ea prima ars, propter quam ipsa est civitas omnium princeps.

31 verum haec Cato nimium nos nostris verbis magna facere demonstrat et oblitos esse bellum illud omne Mithridaticum cum mulierculis esse gestum. quod ego longe secus existimo, iudices, deque eo pauca disseram; neque enim causa in hoc continetur. nam si omnia bella, quae cum Graecis gessimus, contemnenda sunt, derideatur de rege Pyrrho triumphus M'. Curii, de Philippo T. Flaminini, de Aetolis M. Fulvii, de rege

*simulatio prudentiae*] 'your long-winded put-on learning.' The abstract for concrete, cf. *annalium vetustas*, § 16.

*sapientia*]=eloquence. M. T. H., but from their quotations I doubt this; it may refer to such men as Virgil's *pietate gravis ac meritis*, who in the sedition (Æn. I. 148 foll.) *regit dictis animos et pectora mulcet*. So Laelius was called *sapiens*. See § 66, note.

*res publica*] The latter word is in all the MSS. save one; Cicero throws it in, just as *non solum... verum etiam*, to give his own turn of meaning to the quotation.

*bonus*] Cicero seems to make this mean 'good'=successful. But I fancy it was meant by Ennius as 'the honest pleader,' or, in Scotch phrase, 'the pleader, honest man,' merely a general term of approval, in opposition to *horridus*.

*vero*] 'as for your profession, it is utterly prostrated;' *iacet*, cf. §§ 17, 45.

*ex iure*] cf. on § 26: here it is *opposed to ferro, manum conserere* being used in a double sense of (*a*) legal claiming of property, (*b*) fighting. *consertum*, the supine, sc. *vocant* or *eunt*.

These lines from Ennius, Annal. VII., are quoted in full by Gellius XX. 10. 4. *pellitur e medio sapientia, vi geritur res; spernitur orator bonus, horridus miles amatur. haut doctis dictis certantes nec maledictis, miscent inter sese inimicitias agitantes. non ex iure manum consertum, sed magis ferro rem repetunt regnumque petunt, vadunt solida vi.*

*forum castris*] Not so in his poem *de suis temporibus*, fragm. 1, *cedant arma togae*.

*umbra soli*] sc. a sedentary life to an active one, cf. Prof. Mayor's note on Juv. VII. 105.

31. *mulierculis*] 'weak women,' opposed to *viri* in Lael. § 46. T.

*neque enim*] refers to *pauca*.

*Pyrrho*] battle of Beneventum B.C. 275 or 276, triumph in same year. Mommsen, bk. II. c. 7.

*Philippo*] Kynoskephalae 197, triumph 194. Mommsen, bk. III. c. 8.

*Aetolis*] 189, triumph 187.

Perse L. Pauli, de Pseudophilippo Q. Metelli, de Corinthiis L. Mummii: sin haec bella gravissima victoriaeque eorum bellorum gratissimae fuerunt, cur Asiaticae nationes atque ille a te hostis contemnitur? atqui ex veterum rerum monumentis vel maximum bellum populum Romanum cum rege Antiocho gessisse video: cuius belli victor L. Scipio aequa parta cum Publio fratre gloria, quam laudem ille Africa oppressa cognomine ipso prae se ferebat, eandem hic sibi ex Asiae nomine adsumpsit. quo quidem in bello virtus enituit egregia M. 32
Catonis, proavi tui: quo ille, cum esset, ut ego mihi statuam, talis, qualem te esse video, numquam cum Scipione esset profectus, si cum mulierculis bellandum arbitraretur. neque vero cum P. Africano senatus egisset, ut legatus fratri proficisceretur, cum ipse paulo ante Hannibale ex Italia expulso, ex Africa eiecto, Karthagine oppressa, maximis periculis rem publicam liberasset, nisi illud grave bellum et vehemens puta-

*Perse*] Pydna 168, triumph 167.

*Pseudophilippo*] 148, triumph 146. Mommsen, bk. IV. c. 1.

*Corinthiis*] 146, triumph 145. Mommsen, bk. IV. c. 1.

*gratissimae*] Only in one bad MS. but *gravissimae* is clearly wrong. 'A great relief.'

*victoriae bellorum*] cf. § 1, *comitiorum precatio.*

*Asiaticae*] H. well remarks that this refers to what we call Asia Minor, where Greek was generally spoken; hence it agrees well with *cum Graecis* above. For *nationes* cf. on § 69.

*contemnitur*] sing. as *fuit* § 15.

*Antiocho*] B.C. 192—190. Mommsen bk III. c. 9.

*belli victor*] so Stat. Theb. IX. 624, *da visere belli victorem.*

*aequa parta*] Of the various restorations of this passage, this of Kayser and Sorof seems to me the best. MSS. mostly *si qua parta.* The statement is grossly exaggerated.

*ille*] because Publius was the elder and greater of the two; *hic* then answers it, otherwise it would be superfluous. Z. cf. de Leg. II. § 5.

*nomine*] sc. *Asiaticus.*

32. *M. Catonis*] in 191 B.C. at the battle of Thermopylae. Liv. XXXVI. 18, Plut. Cato 13.

*statuam*] so I prefer to read with the MSS., as better than *statuo* in both sense and authority: 'to set him in my mind's eye.'

*cum Scipione*] These words are to be kept, as (*a*) if he went with M'. Acilius Glabrio, the inaccuracy is one into which Cicero might well have fallen, and (*b*) Z. has shewn that he is very possibly right.

*arbitraretur* and below *putaretur*] For the tense cf. Madv. § 347 b, obs. 2. 'had he thought (=been thinking) that'.....

*neque vero*] 'nor yet again.'

*egisset*] For all the ingenuity of Z. I still think that this statement and those in Phil. XI. § 17, and Liv. XXXVII. 1, are quite at variance. The two latter seem to be different versions, the present one an oratorical misrepresentation, of the same story.

*fratri*] dat. after *legatus.*

retur. xv. atqui si diligenter, quid Mithridates potuerit et quid effecerit et qui vir fuerit, consideraris, omnibus regibus, quibuscum populus Romanus bellum gessit, hunc regem nimirum antepones: quem L. Sulla, maximo et fortissimo exercitu, pugnae certe non rudis imperator, ut aliud nihil dicam, cum bello invectum totam in Asiam, cum pace dimisit: quem L. Murena, pater huiusce, vehementissime vigilantissimeque vexatum, repressum magna ex parte, non oppressum reliquit: qui rex, sibi aliquot annis sumptis ad confirmandas rationes et copias belli, tantum ipse conatu valuit, ut se Oceanum cum
33 Ponto, Sertorii copias cum suis coniuncturum putaret. ad quod bellum duobus consulibus ita missis, ut alter Mithridatem persequeretur, alter Bithyniam tueretur, alterius res, et terra et mari calamitosae, vehementer opes regis et nomen auxerunt; L. Luculli vero res tantae exstiterunt, ut neque maius bellum commemorari possit neque maiore consilio et virtute gestum. nam cum totius impetus belli ad Cyzicenorum moenia constitisset eamque urbem sibi Mithridates Asiae

xv. *nimirum*] in apodosis, as in de Off. II. § 71. Z.

*pugnae certe* etc.] here I believe Z. rightly emends from *pugna certe* of MS. Lag. 9.

*cum pace*] opposed to *cum bello*. He merely gave up what he had seized: this was in 85 B.C., the first Mithridatic war.

*L. Murena*] left behind in command by Sulla in 84 B.C. and ordered not to provoke Mithridates; he did not obey this and in the second Mithridatic war fared ill (83—81 B.C.) at the king's hands; here Cicero speaks with great oratorical license.

*repressum*] so in Catil. I. § 30.

*aliquot*] sc. seven, 81—75 B.C.

*rationes*] his 'position,' both as to plans and material of war, in relation to his enemy. cf. § 4, *tempestatum rationem*. Or 'plans.' cf. §§ 46, 83.

*ipse*] 'unaided,' not, as in the war with Sulla, having many allies to *back him*. Most editors however prefer *spe conatuque*, and perhaps they are right.

*Oceanum*] the Atlantic. *Pontum*, the Euxine. i. e., rule the land from sea to sea.

*Sertorii*] For this see Mommsen, book V. ch. 1.

33. *consulibus*] L. Licinius Lucullus and M. Aurelius Cotta; for the full history of this war, called the third Mithridatic, see Mommsen, book V. ch. 2.

*ita*] 'with instructions that while the one (Lucullus) was to pursue Mithridates, the other (Cotta) was to cover Bithynia.'

*calamitosae*] The disaster of Chalkedon, before the arrival of Lucullus, in B.C. 74.

*constitisset*] I can see no alternative but to accept this correction for *extitisset* of the MSS., which seems inexplicable with *impetus*. We must not however compare Liv. XXI. 49, XXII. 32, for, as H. remarks, the meaning there is 'had come to a standstill;' here, 'had come to a

ianuam fore putasset, qua effracta et revulsa tota pateret provincia, ita perfecta ab Lucullo haec sunt omnia, ut et urbs fidelissimorum sociorum defenderetur et omnes copiae regis diuturnitate obsessionis consumerentur. quid? illam pugnam navalem ad Tenedum, cum contento cursu, acerrimis ducibus, hostium classis Italiam spe atque animis inflata peteret, mediocri certamine et parva dimicatione commissam arbitraris? mitto proelia, praetereo oppugnationes oppidorum: expulsus regno tandem aliquando tantum tamen consilio atque auctoritate valuit, ut se rege Armeniorum adiuncto novis opibus copiisque renovarit. XVI. ac si mihi nunc de rebus gestis esset nostri exercitus imperatorisque dicendum, plurima et maxima proelia commemorare possem, sed non id agimus. hoc dico: si bel- 34
lum hoc, si hic hostis, si ille rex contemnendus fuisset, neque tanta cura senatus et populus Romanus suscipiendum putasset, neque tot annos gessisset tanta gloria Luculli, neque vero eius belli conficiendi negotium tanto studio populus Romanus ad Cn. Pompeium detulisset. cuius ex omnibus pugnis, quae sunt innumerabiles, vel acerrima mihi videtur illa, quae cum rege commissa est et summa contentione pugnata. qua ex pugna cum se ille eripuisset et Bosporum confugisset, quo exercitus adire non posset, etiam in extrema fortuna et fuga animum tamen retinuit regium. itaque ipse Pompeius, regno possesso, ex omnibus oris ac notis sedibus hoste pulso, [tamen] tantum in unius anima posuit, ut, cum omnia, quae ille tenue-

head.' The ruin of Mithridates' grand army before Kyzikus 74—73 B.C. is alluded to. 'When the full shock of the war had fallen at one swoop upon the fortress-town of Kyzikus.'

*defenderetur* etc.] cf. pro Archia § 21, de im. Gn. Pomp. §§ 20—21.

*obsessionis*] generally = 'occupation,' here 'siege.' cf. Caes. Bell. Civ. III. 24, *obsessionem nostrorum omisit.*

*acerrimis*] sent by Sertorius. cf. de imp. Gn. Pomp. § 21.

*Italiam*] To renew the civil war, it was thought. Spartacus was at this time roving about Italy unchecked.

*rege Arm.*] Tigranes, his son-in-law.

xvi. *proelia*] as Tigranocerta, B.C. 69.

34. *hoc...hic*] Pompeius was still fighting in Asia. *ille*, Mithridates had died this very year.

*neque tanta gloria Luculli*] 'nor, had they done so, would L. have won so much glory in it.' *tanta gloria* is abl.

*cum rege*] sc. the night-battle or surprise by the Euphrates, B.C. 66. A good conjecture is the insertion of *nocte* here before *commissa* (F. Richter).

*tenuerat*] his kingdom. *adierat*, the Roman possessions in Asia. *sperarat*, the rule of the Caucasian districts. H.

rat, adierat, sperarat, victoria possideret, tamen non ante, quam illum vita expulisset, bellum confectum iudicarit. hunc tu hostem, Cato, contemnis, quocum per tot annos tot proeliis tot imperatores bella gesserant? cuius expulsi et eiecti vita tanti *a Pompeio* existimata est, ut morte eius nuntiata denique bellum confectum arbitraretur. hoc igitur in bello L. Murenam legatum fortissimi animi, summi consilii, maximi laboris cognitum esse defendimus, et hanc eius operam non minus ad consulatum adipiscendum quam hanc nostram forensem industriam dignitatis habuisse.

XVII. 'at enim in praeturae petitione prior renuntiatus est
35 Servius.' pergitisne vos tamquam ex syngrapha agere cum populo, ut, quem locum semel honoris cuipiam dederit, eundem in reliquis honoribus debeat? quod enim fretum, quem euripum tot motus, tantas, tam varias habere putatis agitationes commutationesque fluctuum, quantas perturbationes et quantos aestus habet ratio comitiorum? dies intermissus unus aut nox interposita saepe perturbat omnia et totam opinionem parva nonnumquam commutat aura rumoris. saepe etiam sine ulla aperta causa fit aliud atque existimaris, ut nonnumquam ita factum esse etiam populus admiretur, quasi vero non ipse fecerit. nihil est incertius vulgo, nihil obscurius voluntate
36 hominum, nihil fallacius ratione tota comitiorum. quis L. Philippum, summo ingenio, opera, gratia, nobilitate, a M.

*a Pompeio*] H. inserts this, and it seems to me the best conjecture.

*defendimus*] cf. on § 5.

xvii. 35. *at enim*] cf. Madv. § 437 c.

*pergitisne*] The thought goes back, as H. says, to § 18.

*locum honoris*] place on the roll of office, 'precedence.'

*quod enim* etc.] Loosely quoted by Quint. VIII. vi. 49, with the remark *illud vero longe speciosissimum genus orationis, in quo trium permixta est gratia, similitudinis, allegoriae, translationis.*

*fretum*] especially the Sicilian. *Euripum,* esp. that between Euboea and the mainland, said to ebb and flow 7 times a day: see Mr Tozer's Geography of Greece, Lecture vii, for the wonderful tides of this channel. 'What strait, what sound, think you, has its waves lashed by such violent storms or turned by such shifting tides as are the squalls and surges in the working of our elections?'

*ratio*] so § 36, and in § 4 with *tempestatum.*

*comitiorum*] For the comparison to a stormy sea cf. pro Planc. §§ 11, 15.

*aura*] The abl., according to H. cf. Verg. Æn. VII. 646, *ad nos vix tenuis rerum perlabitur aura.*

*quasi vero*] so § 75, de Off. III. § 39.

Herennio superari posse arbitratus est? quis Q. Catulum, humanitate, sapientia, integritate antecellentem, a Cn. Mallio? quis M. Scaurum, hominem gravissimum, civem egregium, fortissimum senatorem, a Q. Maximo? non modo horum nihil ita fore putatum est, sed ne cum esset factum quidem, qua re ita factum esset, intellegi potuit. nam ut tempestates saepe certo aliquo caeli signo commoventur, saepe improviso nulla ex certa ratione obscura aliqua ex causa concitantur, sic in hac comitiorum tempestate populari saepe intellegas, quo signo commota sit, saepe ita obscura est, ut casu excitata esse videatur. XVIII. sed tamen si est reddenda ratio, duae res vehe- 37
menter in praetura desideratae sunt, quae ambae in consulatu multum Murenae profuerunt: una, exspectatio muneris, quae et rumore non nullo et studiis sermonibusque competitorum creverat, altera, quod ii, quos in provincia ac legatione omnis et liberalitatis et virtutis suae testis habuerat, nondum decesserant. horum utrumque ei fortuna ad consulatus petitionem reservavit. nam et L. Luculli exercitus, qui ad triumphum convenerat, idem comitiis L. Murenae praesto fuit, et munus amplissimum, quod petitio praeturae desiderarat, praetura

36. *opera*] = 'activity in the forum. H. cf. on § 22.

*M. Herennio*] consul in B.C. 93.

*Gn. Mallio*] consul 105.

*Q. Fabio Maximo Eburno*] in 116.

*putatum est*] Very rare, but found in de Div. I. § 84. Z.

*nam ut* etc.] Quoted loosely by Quint. VIII. iii. 80.

*tempestates*] For the metaphor cf. Dem. F. L. § 136, p. 383.

*obscura est*] sc. *commota tempestas.*

*esse videatur*] cf. Quint. X. ii. 18, Tac. Dial. 23.

xviii. 37. *ratio*] if one must account for Murena's having been returned as praetor later than Sulpicius.

*desideratae*] the want of which was felt when he was standing for the praetorship.

*muneris*] He had not been aedile, and had had no chance of giving any great show. The other candidates (and their agents) had made the most of this defect in Murena's qualifications for office.

*creverat*] 'had reached a great height, owing to a general report, and the remarks of rivals coloured with party-spirit.'

*provincia*] T. refers this to his service in Asia under his father.

*legatione*] as *legatus* to Lucullus.

*decesserant*] Regular word for quitting a province, § 68 etc., the triumph of Lucullus was deferred by intrigues from the year 66 B.C. to 63.

*comitiis*] 'at the election,' cf. *gladiatoribus*, § 67; this conjecture seems necessary to be adopted. MSS. *comes.*

*L. Murenae*] dative after *praesto fuit.* H.

38 restituit. num tibi haec parva videntur adiumenta et subsidia consulatus? voluntas militum cum per se valet multitudine, cum apud suos gratia, tum vero in consule declarando multum etiam apud universum populum Romanum auctoritatis habet suffragatio militaris; imperatores enim comitiis consularibus, non verborum interpretes deliguntur. quare gravis est illa oratio: 'me saucium recreavit, me praeda donavit: hoc duce castra cepimus, signa contulimus: numquam iste plus militi laboris imposuit quam sibi sumpsit; ipse cum fortis, tum etiam felix.' hoc quanti putas esse ad famam hominum ac voluntatem? etenim si tanta illis comitiis religio est, ut adhuc semper omen valuerit praerogativae, quid mirum est in hoc felicitatis famam sermonemque valuisse?

XIX. sed si haec leviora ducis, quae sunt gravissima, et hanc urbanam suffragationem militari anteponis, noli ludorum huius elegantiam et scaenae magnificentiam valde contemnere, quae huic admodum profuerunt. nam quid ego dicam populum ac vulgus imperitorum ludis magno opere delectari? minus est mirandum, quamquam huic causae id satis est; sunt enim populi ac multitudinis comitia. quare, si populo ludorum

*restituit*] As *praetor urbanus* he celebrated the *ludi Apollinares* with great splendour, thus the chance of winning popular favour, lost before, was 'given back' to him as his due.

38. *cum...cum...tum*] cf. pro. Rosc. Am. § 62, pro Rabir. § 2, de leg. Agr. I. § 9.

*valet multitudine*] Plut. Lucull. 36, as H. well remarks, throws some light on Cicero's statements. Pompeius left him but 1600 soldiers to share his triumph, and even these shewed little eagerness in attending him, cf. § 69.

*suffragatio*] 'canvassing,' as also I believe in pro Planc. §§ 15, 44.

*verborum interpretes*] In which case the soldiers would be the worst of critics: the phrase is a hit at Sulpicius.

*ipse*] Personally. For the reception of a popular general cf. Velleius, II. 104, 5, *at vero militum conspectu eius elicitae gaudio lacrimae.....videmus te, imperator, salvum recepimus .....ego tecum, imperator, in Armenia, ego in Rhaetia fui*, etc.

*quanti putas esse*] cf. § 48, *quam securim* etc., Madv. § 492 b. H.

*ad famam*] cf. on § 29, *ad honorem.*

*omen praerogativae*] The order of voting being determined by lot, the vote of the first century was taken as an *omen* or indication of the vote to follow, cf. de Div. I. § 103, pro Planc. § 49.

XIX. *urbanam*] 'civilian,' cf. §§ 19, 41.

*vulgus imperitorum*] = *vulgus imperitum* as in de Orat. III. § 195.

*huic causae*] For the matter in hand the fact is sufficient. *id*, the fact that the shows please the mob. Cicero argues, how then can one be surprised at Murena's defeating you?

*populi*] Possessive genitive, cf. Madv. § 281.

magnificentia voluptati est, non est mirandum eam L. Murenae apud populum profuisse. sed si nosmet ipsi, qui et ab delec- 39
tatione communi negotiis impedimur et in ipsa occupatione delectationes alias multas habere possumus, ludis tamen oblectamur et ducimur, quid tu admirere de multitudine indocta? L. Otho, [vir fortis,] meus necessarius, equestri ordini restituit 40
non solum dignitatem, sed etiam voluptatem. itaque lex haec, quae ad ludos pertinet, est omnium gratissima, quod honestissimo ordini cum splendore fructus quoque iucunditatis est restitutus. quare delectant homines, mihi crede, ludi, etiam illos, qui dissimulant, non solum eos, qui fatentur. quod ego in mea petitione sensi; nam nos quoque habuimus scaenam competitricem. quodsi ego, qui trinos ludos aedilis feceram, tamen Antonii ludis commovebar, tibi, qui casu nullos feceras, nihil huius istam ipsam, quam irrides, argenteam scaenam

39. *admirere de...*] sc. wonder, not at the common herd, but at some fact in connexion with them; here, at their fondness for the shows. Madv. Fin. I. § 4, who cf. ad Att. X. 17. 4, *de diplomate admiraris.*

*indocta*] Z. on *vulgus* § 38 well remarks that this is not at all the same as *multitudo indoctorum.*

40. *L. Otho*] The *equites* seem to have had some precedence of the *plebs* in the theatre (though they did not sit all together), as they had had in the circus from very early times. G. Gracchus had probably given them this distinction (Mommsen, bk. IV., ch. 3), Sulla deprived them of it. When then Roscius Otho, tribune B.C. 67, carried his law which gave them 14 rows of seats in the theatre all together immediately behind the *orchestra* (where the Senators sat), he did what may fairly be spoken of as *restituit*, so also Velleius, II. 32. 3, cf. Hor. E. 4. 15, Epp. I. 1. 62, Prof. Mayor on Cic. Phil. II. § 44, Juv. III. 153.

*ad ludos*] In ad Att. II. 19. 3 we have mention of a *lex Roscia frumentaria.*

*gratissima*] it was a most unpopular measure. Cicero himself had in 64 B.C. sought to lessen the general dislike to it in the speech de L. Othone, now lost, cf. ad Att. II. 1. 3.

*trinos*] not *tres*, as *ludi* denotes a compound object, which can be repeated and counted, so *bina castra, quinae litterae.* Madv. § 76 c, cf. *bina spolia*, Liv. I. 10.

*aedilis*] In B.C. 69. The three *ludi* were *Cereales, Florales, Romani*, as he tells us II in Verr. V. § 36; he had not however indulged in any great extravagance, de Off. II. § 59, and he claims that he did not owe his later distinctions to these shows.

*Antonii*] as praetor in B.C. 66. Their splendour made Cicero feel very anxious, as Antonius was in league with Catiline at the elections for 63.

*casu*] As praetor he did not get the *urbana iurisdictio*, and he had never been aedile.

*argenteam*] Probably some part of the stage was really covered with silver: the testimony of Plin. H. N. XXXIII. 3. 53 depends on the punctuation of the passage, and cannot be urged strongly. Even if (as I think) it does say literally what Cicero says here, we may doubt whether the present high-flown pas-

41 adversatam putas? sed haec sane sint paria omnia: sit par forensis opera militari, militaris suffragatio urbanae, sit idem magnificentissimos et nullos umquam fecisse ludos: quid? in ipsa praetura nihilne existimas inter tuam et huius sortem interfuisse?

xx. huius sors ea fuit, quam omnes tui necessarii tibi optabamus, iuris dicundi: in qua gloriam conciliat magnitudo negotii, gratiam aequitatis largitio: qua in sorte sapiens praetor, qualis hic fuit, offensionem vitat aequabilitate decernendi, benevolentiam adiungit lenitate audiendi: egregia et ad consulatum apta provincia, in qua laus aequitatis, integritatis,
42 facilitatis ad extremum ludorum voluptate concluditur. quid tua sors? tristis, atrox: quaestio peculatus, ex altera parte lacrimarum et squaloris, ex altera plena tabularum atque indicum. cogendi iudices inviti, retinendi contra voluntatem; scriba damnatus, ordo totus alienatus; Sullana gratificatio reprehensa, multi viri fortes et prope pars civitatis

sage be not the only authority for Pliny's statement.

41. *sed haec.....interfuisse?*] Recapitulates from § 19. Z.

xx. *iuris dicundi*] Since Sulla there had been eight praetors, two for the Civil Courts, the *urbanus* and the so-called *peregrinus;* the other six were for the Criminal Courts. Murena was lucky in drawing the lot for the *praetura urbana.*

*aequitatis*] 'justice according to the spirit of the law,' opposed to the letter, as in § 27.

*adiungit*] sc. *sibi*, 'wins,' cf. § 42, pro Rosc. Am. § 116, pro Cluent. § 3.

*ad extremum*] 'to crown all, it is finished off with'...not of time, for the *ludi Apollinares* fall on a. d. III. Non. Iul. (5th July). But I can find no parallel.

42. *tristis, atrox*] 'one of gloom and severity.'

*peculatus*] One of the *quaestiones perpetuae,* dealing with misappropriation or theft of the public property. *pecus* originally = moveable property. Freund well cf. Gell. XI. *18. 18,* Auct. ad Herenn. I. § 22.

*squaloris*] The *reus* would appear in a *squalida vestis.* See App. A.

*tabularum*] account-books put in as evidence. cf. pro Fonteio § 12, *unae tabulae proferantur.*

*indicum*] so § 49, much the same as the later *delatores*, 'informers.'

*scriba*] The secretaries to the magistrates were called *scribae;* the *scribae quaestorii* and *aedilicii* were held in highest repute. They were citizens and had votes in elections. Freund. Their influence was great (de Leg. III. § 48 probably refers to them in particular), and also their duties, cf. II in Verr. III. § 183, where they are as here strangely spoken of as *ordo* (so *ordo aratorum.* II in Verr. II. § 17). Cicero seems to be thinking of a case in which a *scriba* had by his power over the State ledgers been guilty of *peculatus* either as principal or accessory. For form of sentence cf. Madv. § 442 a, obs. 2.

*gratificatio*] The free allotments of land by Sulla to his soldiers. cf. de leg. Agr. III. § 6, *coniungitur impudens gratificatio cum acerba iniu-*

offensa; lites severe aestimatae; cui placet obliviscitur, cui dolet meminit. postremo tu in provinciam ire noluisti. non possum id in te reprehendere, quod in me ipso et praetore et consule probavi, sed tamen L. Murenae provincia multas bonas gratias cum optima existimatione attulit. habuit proficiscens dilectum in Umbria: dedit ei facultatem res publica liberalitatis, qua usus multas sibi tribus, quae municipiis Umbriae conficiuntur, adiunxit: ipse autem in Gallia, ut nostri homines desperatas iam pecunias exigerent, aequitate diligentiaque perfecit. tu interea Romae scilicet amicis praesto fuisti. fateor, sed tamen illud cogita, non nullorum amicorum studia minui solere in eos, a quibus provincias contemni intellegunt.

XXI. et quoniam ostendi, iudices, parem dignitatem ad con- 43
sulatus petitionem, disparem fortunam provincialium negotiorum in Murena atque in Sulpicio fuisse, dicam iam apertius, in quo meus necessarius fuerit inferior Servius, et ea dicam vobis audientibus, amisso iam tempore, quae ipsi soli re integra

*ria. reprehensa*, called in question by some decision.

*viri fortes*] sc. *Sullani milites.*

*pars*] 'a considerable part,' as often, cf. Liv. I. 10, *Caeninenses Crustuminique et Antemnates erant ad quos eius iniuriae pars pertinebat.*

*lites*, etc.] If you have assessed the amount of the restitution to be made, taking a hard view of the case. [In the times of the empire the amount was fixed at four times the value of what was taken; *in quadruplum*, Jul. Paull. V. 27.] This seems to have been confined to State cases, and was quite a separate matter from the verdict (*iudicium*). See in particular pro Cluent. §§ 115—116, and Ramsay's note. In Gellius IV. 4. 2, we have a case of breach of promise of marriage, where *litem pecunia aestimabat* = used to assess the damages at such-and-such a sum.

*cui placet*] he who approves of it. Nobody 'gets anything by it.' Z.

*meminit*] and so the presiding magistrate gradually becomes unpopular.

*bonas gratias*] A regular combination, cf. *aliquam bonam gratiam*, pro imp. Gn. Pomp. § 71. For the plural = *gratias apud multos*, cf. § 24.

*liberalitatis*] generous help in equipment-money, &c. Z., and I do not see how the word will bear any other interpretation.

*conficiuntur*] are made up out of borough-towns in Umbria. These *municipia* are the old Latin colonies, planted as garrisons when Rome was gradually conquering all Italy. By the Julian law of B. C. 90 they received the Roman franchise.

*Gallia*] *Transalpina*, in 64 B. C.

*ipse*, he 'made a chance,' opposed to *dedit res publica.*

*nostri homines*] Roman capitalists, *publicani*, &c.

*non nullorum*] sc. place-hunters.

XXI. 43. *provinciqlium*] 'official.' So *provincia*, 'an official charge,' § 41 etc.

*amisso*] 'though the time for applying them is now past and gone.' cf. de prov. Cons. § 17, *tempore amisso annus est integer vobis expectandus.*

*re integra*] 'while it was yet time.' cf. on *est integrum* § 8.

saepe dixi. petere consulatum nescire te, Servi, persaepe tibi dixi, et in his rebus ipsis, quas te magno et forti animo et agere et dicere videbam, tibi solitus sum dicere, magis te fortem accusatorem mihi videri quam sapientem candidatum. primum accusandi terrores et minae, quibus tu cotidie uti solebas, sunt fortis viri, sed et populi opinionem a spe adipiscendi avertunt et amicorum studia debilitant. nescio quo pacto semper hoc fit—neque in uno aut altero animadversum est, sed iam in pluribus—,simul atque candidatus accusationem
44 meditari visus est, ut honorem desperasse videatur. 'quid ergo? acceptam iniuriam persequi non placet?' immo vehementer placet, sed aliud tempus est petendi, aliud persequendi. petitorem ego, praesertim consulatus, magna spe, magno animo, magnis copiis et in forum et in campum deduci volo: non placet mihi inquisitio candidati, praenuntia repulsae, non testium potius quam suffragatorum comparatio, non minae magis quam blanditiae, non declamatio potius quam persalutatio, praesertim cum iam hoc novo more omnes fere domos

*consulatum*] not interpolated. Cicero is quoting his own words in private to Sulpicius during his last candidature. There is of course no implied opposition, such as 'though you do know how to stand for the praetorship and quaestorship.' cf. Quint. xi. i. 69.

*his rebus ipsis*] sc. his denunciations in the Senate, and his preparations for prosecuting a successful rival.

*fortis*] 'resolute.' Perhaps better *fortissimi* with MS. Lag. 9.

*a spe adipiscendi*] i.e. they make people think that he has given up all hope of success.

*fit...ut*] is the connexion.

*desperasse*] to have given up for lost. For the acc. after *despero*, cf. de Rep. vi. § 25, in Catil. ii. § 19, ad Fam. xii. 14. 3. It is also constructed (*a*) with acc. and inf., (*b*) with *de* and abl., (*c*) absolutely like 'to be in despair,' (*d*) with the dat., *saluti*, etc.

44. *magnis copiis*] A company of friends of the clients usually escorted a candidate to the *forum*, where he canvassed (*prensabat*), and on the day of election to the *Campus Martius*, where the voting went on. It was an object to secure as many Senators and *equites* as possible. The larger a man's company, the more likely he was thought to succeed. cf. auct. petit. cons. §§ 16—18.

*deduci*] The regular word for escorting a candidate. cf. § 69 foll.

*inquisitio*] the hunting up of evidence against a candidate. Here it is of an unofficial proceeding, for the purpose of having the materials ready to hand. Usually of the official search for evidence after the charge has been formally laid and received by the praetor. cf. II in Verr. ii. § 11.

*suffragatorum*] cf. on § 16.

*declamatio*] 'ranting' against what displeases you.

*persalutatio*] 'general greeting' to all you meet. cf. *persalutare* in pro Flacco § 42.

*praesertim cum*] Madv. on de Fin.

omnium concursent et ex vultu candidatorum coniecturam faciant, quantum quisque animi et facultatis habere videatur. 'videsne tu illum tristem, demissum? iacet, diffidit, abiecit 45
hastas.' serpit hic rumor: 'scis tu illum accusationem cogitare, inquirere in competitores, testes quaerere? alium faciam, quoniam sibi hic ipse desperat.' eius modi de candidato rumore amici intimi debilitantur, studia deponunt, aut desertam rem abiciunt, aut suam operam et gratiam iudicio et accusationi reservant. XXII. accedit eodem, ut etiam ipse candidatus totum animum atque omnem curam, operam diligentiamque suam in petitione non possit ponere; adiungitur enim accusationis cogitatio, non parva res, sed nimirum omnium maxima. magnum est enim te comparare ea, quibus possis hominem e civitate, praesertim non inopem neque infirmum, exturbare, qui et per se et per suos et vero etiam per alienos defendatur. omnes enim ad pericula propulsanda concurrimus, et qui non aperte inimici sumus, etiam alienissimis in capitis periculis amicissimorum officia et studia praestamus. quare ego expertus et petendi et defendendi et accusandi mo- 46
lestiam sic intellexi: in petendo studium esse acerrimum, in defendendo officium, in accusando laborem. itaque sic statuo: fieri nullo modo posse, ut idem accusationem et petitionem

II. § 25, explains these particles as = '*idque cum tamen*,' '*quamvis*,' 'and that though.' If so here, it must go very closely with *declamatio*, which must = 'stopping at home to practise a speech against Murena,' as Z. explains it. cf. Prof. Mayor on Phil. II. § 42. But it seems to me that Cicero was *Madvigi securus*, and meant, 'I do not prefer the voice of sulky indignation to that of general greeting, particularly as people notice it and feel inclined to vote against such a candidate.' cf. §§ 24, 53.

*iam*] since it has got to this now-a-days, that....

*omnium*] sc. *candidatorum*.

*coniecturam faciant*] so § 9. 'infer.'

*animi et facultatis*] confidence and support.

45. *hastas*] weapon of offence. 'He has given up the contest.' *iacet*. cf. § 30.

*faciam*] 'I shall vote for another candidate.' cf. pro Planc. § 9, *facit eos, a quibus est maxime ambitus*.

xxii. *accedit ut*] Madv. § 373, obs. 3.

*e civitate exturbare*] The *lex Tullia* inflicted a penalty of ten years exile.

*non inopem*, etc.] Or he would never have come forward as a candidate. *te* and *hominem* are quite general.

*alienissimis*] cf. § 8, de Orat. II. § 200.

46. *esse in*] belongs to, is required by.

[consulatus] diligenter adornet atque instruat: unum sustinere pauci possunt, utrumque nemo. tu, cum te de curriculo petitionis deflexisses animumque ad accusandum transtulisses, existimasti te utrique negotio satis facere posse: vehementer errasti. quis enim dies fuit, postea quam in istam accusandi denuntiationem ingressus es, quem tu non totum in ista ratione consumpseris? XXIII. legem ambitus flagitasti, quae tibi non deerat; erat enim severissime scripta Calpurnia. gestus est mos et voluntati et dignitati tuae. sed tota illa lex accusatio-

*adornet*] 'equip,' 'prepare.' *instruat.* 'marshal,' 'array,' 'organize.' cf. pro Cluent. §§ 18, 191. The metaphor seems to be a military one. cf. on § 22.

*sustinere*] 'carry out,' 'act.' cf. de Orat. II. § 102, *tres personas unus sustineo.* This seems to be a stage metaphor.

*deflexisses*] Here we pass to a race. The change of metaphors here is very rapid, and does not appear to me happy. *te* is in the MSS., and, though against Cicero's usage, seems defensible. I believe that he is thinking of the circus. 'After turning yourself (like a chariot) out of the course,' i. e. you were like a driver who gives his attention during a race to some thing off his course, and divided attention was fatal to your success as it would be to his.

*quis dies*] *quis* adjectival. cf. Madv. § 88, obs. 1.

*in ista ratione*] 'in carrying out that plan.' cf. § 83, I in Verr. § 34, *tua ratio est ut secundum binos ludos mihi respondere incipias, mea ut ante primos ludos comperendinem.*

XXIII. *erat*] 'there was the Calpurnian law, with its provisions of the strictest.'

*Calpurnia*] passed in B.C. 67 by G. Calpurnius, consul of the year, at the desire of the Senate. It was severe, and quite superseded all the earlier enactments on the subject. It inflicted a heavy fine on a candidate who (whether successful or not) *had employed* bribery. It also deprived him for ever of the right of holding office or sitting in the Senate, but allowed him to stay at Rome. A fine was also probably inflicted on the agents, in particular those called *divisores.* Z. well remarks that these must be the *plebs*, the increase of whose penalties was called for by Sulpicius. Moreover, one who had been condemned for *ambitus* might regain his former position (*in integrum restituebatur*) by procuring the conviction of another on the same charge (pro Balbo § 57, pro Cluent. § 98, Quint. XI. i. 79), but did not get back the fine. This system of reward was not peculiar to the *lex Calpurnia.*

*gestus est mos*] This was in the meeting of the Senate at which the *senatusconsultum* was carried leading to the *lex Tullia* in this very year.

*tota illa lex*] the *lex Tullia.* It probably followed the terms of the *senatusconsultum*, given in § 67. Another provision is quoted by Cicero himself, in Vatin. § 37, *quum mea lex dilucide vetet biennio quo quis petet petiturusve sit gladiatores dare nisi ex testamento praestituta die*, also pro Sest. § 133. It was a supplement to the Calpurnian law, defining the proofs of guilt more closely, and adding to the penalties, (1) of Senators, i. e. candidates, ten years exile, (2) of the agents, an increase of the previous fine. Moreover, any juror or witness who pleaded illness as an excuse for non-attendance, thus im-

nem tuam, si haberet nocentem reum, fortasse armasset, petitioni vero refragata est. poena gravior in plebem tua voce 47
efflagitata est; commoti animi tenuiorum: exilium in nostrum ordinem; concessit senatus postulationi tuae, sed non libenter duriorem fortunae communi condicionem te auctore constituit. morbi excusationi poena addita est: voluntas offensa multorum, quibus aut contra valetudinis commodum laborandum est aut incommodo morbi etiam ceteri vitae fructus relinquendi. quid ergo? haec quis tulit? is, qui auctoritati senatus, voluntati tuae paruit, denique is tulit, cui minime proderant. quid? illa, quae mea summa voluntate senatus frequens repudiavit, mediocriter adversata tibi esse existimas? confusio-

peding the trial, was to be liable to some penalty not now known. H. however refers this penalty to the accused.

*haberet*] sc. *accusatio tua.* So Z. after MS. Lag. 9, and I prefer this to *haberes* of the other MSS., though adopting it with hesitation.

47. *efflagitata est*] was called for and carried.

*commoti*] A feeling of 'our occupation's gone.'

*nostrum ordinem*] Since Sulla had made the quaestorship a passport to the Senate, candidates had practically come only from the senatorial order. H.

*concessit*] 'gave way to,' with no object. cf. § 57. H.

*fortunae communi*] A strange way of stating it. They had the option of abstaining from bribery. But they did not generally do so, and in B.C. 67 it was the Senators who had opposed the hard provisions of the proposed *lex Cornelia* of G. Cornelius the tribune, and had procured the passing of the *lex Calpurnia* in its stead.

*excusatio*] often employed to defer the hearing of such a charge till the accused entered on his office, and was out of the law's reach. If this be meant here of the accused, the penalty was doubtless, as H. says, directed against the candidates. But it may equally well (and with more likelihood, it seems to me) be referred to cases of witnesses or jurors falling ill. See below, *quibus..... laborandum est,* and note. They often fell ill when a friend was on his trial.

*addita est*] sc. on the top of their illness. cf. Phil. II. § 31, *cur quaestores additi?* and Prof. Mayor's note.

*laborandum*] i. e. stand the wear and tear of a trial in court.

*fructus*] What the allusion here is we do not know. H. has a note in which he refers to the punishment of exile. But Z. rightly urges that *multorum* cannot be the accused candidates, and his conjecture, that jurors or witnesses who stayed away because of illness were to lose some privileges (e. g. the right of sitting on a jury or giving evidence) for the future, seems to me far more probable.

*haec*] these provisions, i.e. this law.

*is.* Cicero.

*proderant*] Cicero's own course was run. He is making out that Sulpicius was the real author of the severity of the Tullian law. He was known to have advocated even stronger measures, and this, says Cicero, was a bad thing for his candidature.

*confusionem suffragiorum*] some

nem suffragiorum flagitasti, prorogationem legis Maniliae, aequationem gratiae, dignitatis, suffragiorum. graviter homines honesti atque in suis vicinitatibus et municipiis gratiosi tulerunt, a tali viro esse pugnatum, ut omnes et dignitatis et gratiae gradus tollerentur. idem editicios iudices esse voluisti, ut odia occulta civium, quae tacitis nunc discordiis continentur, in fortunas optimi cuiusque erumperent. haec omnia tibi accusandi viam muniebant, adipiscendi obsaepiebant.

48 atque ex omnibus illa plaga est iniecta petitioni tuae, non tacente me, maxima, de qua ab homine ingeniosissimo et copiosissimo, Q. Hortensio, multa gravissime dicta sunt. quo etiam mihi durior locus est dicendi datus, ut, cum ante me et

plan by which votes were to have equal weight. 'Mass-voting' as opposed to the nice gradations of the *comitia centuriata*, but whether on the plan of the *comitia tributa*, as Z. conjectures, is not so clear. H. well says, 'as the proposal of Sulpicius came out in the course of a debate on a new *lex de ambitu*, there is great probability in the conjecture that it was not meant to refer to elections generally, but only to fresh elections held when a magistrate elect had been convicted of *ambitus*.' Z. comments on the extreme difficulty of ensuring a formal meeting of the centuries within a given time, which strengthens this view.

*prorogationem*] the extension of the period of its application. cf. *ad Att.* XIII. 43, *prorogatio diei*, in a slightly different sense. Here it is like *prorogare imperium*, Phil. II. § 24, etc. The conjecture *perrogationem* seems more strange than clear.

*Maniliae*] All we know is that G. Manilius the tribune carried in 67 B. C. a law concerning the *libertini*, which was at once annulled. But I doubt whether this is meant in any way here.

*vicinitatibus*] This correction seems necessary. It is in 2 MSS. and H. adopts it. cf. pro Cluent. § 11, pro Rosc. Am. § 15, auct. petit. cons. § 24. Vulg. *civitatibus*, which Z. refers to the *coloniae Romanae*.

*editicios iudices*] named by the accuser, with power to the accused of rejecting by challenge a certain number: the most probable explanation of this difficult passage is that proposed by Z. on comparison of pro Planc. § 41; there were to be 125 jurors, *equites* and *tribuni aerarii*, nominated by the accuser from the register (*album iudicum*), of these the *reus* might reject 75, leaving 50, also 25 Senators were to be appointed, but by some other means, and none of these could be rejected, there would thus be a jury of 75 in all left for the trial, [these are distinct from the *editi iudices*, of whom any number might be rejected, according to Wunder on pro Planc. proleg. III. iii. 3, (though he is not free from error in that article); and there is no connexion with the *editicii iudices* from particular tribes who were by the *lex Licinia* of B.C. 55 appointed to try cases of *sodalicia*.]

*odia*] as the accuser would take care to name men who had a grudge against the accused.

*adipiscendi*] absolutely, as in § 43.

48. *illa plaga*] the 'blow' is explained below, *cum pop. Rom. in eum metum adduxisti*.

*ut*] 'namely, the task of'...

ille dixisset et vir summa dignitate et diligentia et facultate dicendi, M. Crassus, ego in extremo non partem aliquam agerem causae, sed de tota re dicerem, quod mihi videretur. itaque in isdem rebus fere versor, et, quoad possum, iudices, occurro vestrae sapientiae. XXIV. sed tamen, Servi, quam te securim putas iniecisse petitioni tuae, cum populum Romanum in eum metum adduxisti, ut pertimesceret ne consul Catilina fieret dum tu accusationem comparares deposita atque abiecta petitione? etenim te inquirere videbant, tristem ipsum, 49
maestos amicos; observationes, testificationes, seductiones testium, secessiones subscriptorum animadvertebant, quibus rebus certe spes candidatorum obscuriores videri solent. Catilinam interea alacrem atque laetum, stipatum choro iuventutis, vallatum indicibus atque sicariis, inflatum cum spe militum, tum collegae mei, quemadmodum dicebat ipse, promissis, circumfluente colonorum Arretinorum et Faesulanorum exercitu,

*diligentia*] the great merit of Crassus, cf. Brutus § 233.

*occurro*] in a friendly sense, 'I am trying to help you to a wise verdict,' 'meeting your wisdom halfway,' cf. pro Cluent. § 63, pro Deiot. § 40, *misericordia occurrere solet ipsa supplicibus et calamitosis.*

xxiv. *sed tamen*] resumes from *illa plaga* etc. above, after the remarks *de qua.....sapientiae* put in parenthetically.

*cum adduxisti*] 'in having brought'...cf. Madv. § 358 obs. 2.

49. *inquirere*] cf. § 45.

*observationes*] sc. of your rivals, by agents for your own, to see that nothing is done in violation of the law, cf. pro Rosc. Am. § 22, auct. petit. cons. § 55, *fac se ut abs te custodiri atque observari sciant.* Z.

*testificationes*] the getting together of depositions in proof of illegal practices, cf. II in Verr. v. §§ 101—103.

*seductiones*] sc. taking them aside and talking anxiously to them, 'whisperings to witnesses,' cf. Persius, II. 4, V. 143, VI. 42, *paullum a turba seductior audi.*

*secessiones*] going aside together to talk over something, cf. Ov. Met. II. 465, *deque suo iussit secedere coetu.*

*subscriptorum*] those whom the principal counsel has 'with him in the case,' 'juniors.' cf. div. in Caecil. § 51, *non esse hos tales viros commissuros, ut ad causam tantam, a me susceptam, mihi creditam, quisquam subscriptor me invito aspirare possit.*

*obscuriores*] H. in ed. 1872 gives the above reading of this corrupt passage, and it seems the best. But for this use of *obscuriores* I can find no parallel. § 16 seems nearest.

*indicibus*] cf. pro Sest. § 95.

*militum*] hopes of the turbulent soldiery (?), cf. Sallust Catil. 16, Cic. in Catil. II. §§ 5, 21.

*circumfluente*] This reading, from MS. Lag. 9 and two others, is, I believe rightly, followed by Z. Sorof prefers *exercitum* to ablative. If the vulgate *circumfluentem exercitu* be kept, cf. Lael. § 52.

*colonorum*] Sulla's veterans, settled by him at Arretium and Faesulae; their extravagance had reduced them to poverty and debt. cf. in Catil. II. § 20, Sallust Catil. 28.

quam turbam dissimillimo ex genere distinguebant homines perculsi Sullani temporis calamitate. vultus ipsius erat plenus furoris, oculi sceleris, sermo adrogantiae, sic ut ei iam exploratus et domi conditus consulatus videretur. Murenam contemnebat, Sulpicium accusatorem suum numerabat, non com-
50 petitorem; ei vim denuntiabat, rei publicae minabatur. XXV. quibus rebus qui timor bonis omnibus iniectus sit quantaque desperatio rei publicae, si ille factus esset, nolite a me commoneri velle: vosmet ipsi vobiscum recordamini. meministis enim, cum illius nefarii gladiatoris voces percrebruissent, quas habuisse in contione domestica dicebatur, cum miserorum fidelem defensorem negasset inveniri posse, nisi eum qui ipse miser esset; integrorum et fortunatorum promissis saucios et miseros credere non oportere: quare qui consumpta replere, erepta recuperare vellent, spectarent, quid ipse deberet, quid possideret, quid auderet: minime timidum et valde calamitosum esse oportere eum, qui esset futurus dux et signifer calami-
51 tosorum:—tum igitur, his rebus auditis, meministis fieri senatus consultum referente me, ne postero die comitia haberentur, ut

*dissimillimo ex genere*] epithet of *quam turbam*. 'A most motley crowd.' *turbam* refers to all his previously mentioned comrades.

*distinguebant*] gave a further variety to. As we say 'picked out with white' of a carriage, etc. so *distinguere orationem*, de Orat. II. § 36. *retia maculis distincta*, 'where the empty mesh sets off the rope,' Ov. Her. V. 19. 'Thrown into relief as a whole by the presence of men stricken with the general ruin of Sulla's Reign of Terror.'

*homines*] relics of the Marian party, having nothing in common with the rest of Catiline's supporters save impoverishment and readiness for violence.

*calamitate*] cf. pro Caec. § 95, *ut nihil de illo tempore, nihil de calamitate reipublicae querar.*

*exploratus*] 'assured,' as usual in Cicero.

*domi conditus*] A strong figure. In safe keeping at his house, 'under lock and key.' Z. cf. II in Verr. II. § 5.

*numerabat*] so ad Att. VII. 1 § 3, *me uterque numerat suum.*

*ei*] sc. *Sulpicio.*

XXV. 50. *factus*] so *factus* and *fiant*, § 18.

*nolite velle*] not rare, but remarkable, cf. pro Caelio § 79, pro Balbo § 64, Phil. VII. § 25. H. well points out that *ne volueritis* seems to be avoided. *vosmet ipsi* etc. cf. Phil. II. § 1.

*meministis*] It is caught up and the object expressed (*fieri s. c.*) in the next section.

*contione*] in 63 B.C. That given by Sall. Cat. 20 was in 64. Z.

*integrorum*] opposed to *saucios.*

*replere*] sc. Sulla's veterans. *recuperare*, the Marian party. H.

*quid ipse deberet*] 'the debts of himself, their ringleader.'

51. *senatus consultum*] on a. d. XII. Kal. Nov. (Oct. 20), in Catil. I. § 7.

de his rebus in senatu agere possemus. itaque postridie frequenti senatu Catilinam excitavi atque eum de his rebus iussi, si quid vellet, quae ad me adlatae essent, dicere. atque ille, ut semper fuit apertissimus, non se purgavit, sed indicavit atque induit. tum enim dixit duo corpora esse rei publicae, unum debile, infirmo capite, alterum firmum, sine capite: huic, si ita de se meritum esset, caput se vivo non defuturum. congemuit senatus frequens neque tamen satis severe pro rei indignitate decrevit; nam partim ideo fortes in decernendo non erant, quia nihil timebant, partim, quia timebant. tum erupit e senatu triumphans gaudio, quem omnino vivum illinc exire non oportuerat, praesertim cum idem ille in eodem ordine paucis diebus ante Catoni, fortissimo viro, iudicium minitanti ac denuntianti respondisset, si quod esset in suas fortunas incendium excitatum, id se non aqua, sed ruina restincturum. XXVI. his tum rebus commotus, et quod cum 52
gladiis in campum deduci Catilinam sciebam, descendi cum firmissimo praesidio fortissimorum virorum et cum illa lata insignique lorica, non quae me tegeret—etenim sciebam Catilinam non latus aut ventrem, sed caput et collum solere petere—, verum ut omnes boni animadverterent, et, cum in

*apertissimus*] in bad sense, 'unabashed as ever,' cf. Phil. II. § 111, *disertissimum cognovi avum tuum, at te etiam apertiorem in dicendo.*

*induit*] sc. *in laqueos*. Z. cf. II in Verr. v. § 73, *at quemadmodum ipse se induit priore actione!* § 166, *sua confessione induatur ac iuguletur necesse est.*

*unum*] the senatorial party. *infirmo capite*, sc. the consuls, and in particular Cicero. *alterum*, the 'people's party,' or 'opposition.'

*decrevit*] what, we know not. Cicero seems to have desired the early bestowal of the power of life and death by the decree *videant consules* etc., cf. on § 6. This was not done until Manlius had raised the standard of revolt in Etruria. Sall. Cat. 29.

*nihil timebant*] i. e. they thought the danger exaggerated. *timebant*, were nervous, and hence irresolute.

*erupit*] cf. in Catil. II. § 1, *abiit, excessit, evasit, erupit.*

*in eodem ordine*] in the Senate.

*restincturum*] so Sall. Cat. 31 fin., *incendium meum ruina restinguam.*

XXVI. 52. *cum gladiis*] 'sword in hand.' cf. Phil. II. § 112, *cur homines omnium gentium maxime barbaros, Ityraeos, cum sagittis deducis in forum?*

*descendi*] for fact cf. in Catil. I. § 11.

*insigni*] 'conspicuous.'

*lorica*] for Cicero's breastplate on this occasion cf. Plut. Cic. 14. Dion Cassius, XXXVII. 29.

*caput et collum*] He has already called him *gladiator*, § 50.

*animadverterent*] Plutarch says that he shifted his tunic, so as to shew the breastplate, τοῦ δὲ θώρακος ἐπιτηδὲς ὑπέφαινέ τι.

metu et periculo consulem viderent, id quod est factum, ad opem praesidiumque concurrerent. itaque cum te, Servi, remissiorem in petendo putarent, Catilinam et spe et cupiditate inflammatum viderent, omnes, qui illam ab re publica pestem
53 depellere cupiebant, ad Murenam se statim contulerunt. magna est autem comitiis consularibus repentina voluntatum inclinatio, praesertim cum incubuit ad virum bonum et multis aliis adiumentis petitionis ornatum. qui cum honestissimo patre atque maioribus, modestissima adulescentia, clarissima legatione, praetura probata in iure, grata in munere, ornata in provincia, petisset diligenter et ita petisset, ut neque minanti cederet neque cuiquam minaretur, huic mirandum est magno adiumento Catilinae subitam spem consulatus adipiscendi fuisse?
54 nunc mihi tertius ille locus est reliquus orationis, de ambitus criminibus, perpurgatus ab his, qui ante me dixerunt, a me, quoniam ita Murena voluit, retractandus: quo in loco C. Postumo, familiari meo, ornatissimo viro, de divisorum indiciis et de deprehensis pecuniis, adulescenti ingenioso et bono, Ser. Sulpicio, de equitum centuriis, M. Catoni, homini in omni virtute excellenti, de ipsius accusatione, de senatus consulto, de re publica respondebo.
55 XXVII. sed pauca, quae meum animum repente moverunt, prius de L. Murenae fortuna conquerar. nam cum saepe

53. *magna est*] has great weight = *multum valet.*

*praesertim cum*] cf. on § 44.

*incubuit ad*] has lent its force to. cf. § 59, *incumbenti ad eius perniciem*, ad Att. I. 19. 4, *ad voluntatem perferendae legis incubuerat.*

*aliis*] besides his being good. The *adiumenta* are set forth shortly in the next sentence.

*in iure*] § 41. *in munere*, §§ 37, 38. *in provincia*, § 42.

*et ita petisset*] cf. de imp. Gn. Pomp. § 10, *dicam alio loco et ita dicam.*

*minanti*] a hit at Sulpicius' threats of prosecuting him.

*minaretur*] as Sulpicius did, and lost himself many votes. H.

*Catilinae—consulatus*] so Brutus § 163, *Scaevolae dicendi elegantia*, etc.

54. *locus*] the third head. cf. § 11.

*perpurgatus*] 'cleared up,' with a side allusion to exculpating Murena. T. well cf. de Div. II. § 2, *perpurgatus est is locus a nobis quinque libris. a me*, not *mihi*, for uniformity, as in pro Planc. § 8.

*de equitum centuriis*] cf. on § 73.

*de senatus consulto*] § 67.

*de re publica*] concerning our country's interests, in §§ 74 foll. or with H. 'the political situation.'

XXVII. 55. *cum iudicarem,...tum sum adfectus*] the former verb in the subj. to express a comparison between the general and particular case. Madv. § 358 obs. 3. cf. de Nat. D. I. § 1.

antea, iudices, et ex aliorum miseriis et ex meis curis laboribusque cotidianis fortunatos eos homines iudicarem, qui remoti a studiis ambitionis otium ac tranquillitatem vitae secuti sunt, tum vero in his L. Murenae tantis tamque improvisis periculis ita sum animo adfectus, ut non queam satis neque communem omnium nostrum condicionem neque huius eventum fortunamque miserari: qui primum, dum ex honoribus continuis familiae maiorumque suorum unum ascendere gradum dignitatis conatus est, venit in periculum, ne et ea, quae relicta, et haec, quae ab ipso parta sunt, amittat, deinde propter studium novae laudis etiam in veteris fortunae discrimen adducitur. quae 56 cum sunt gravia, iudices, tum illud acerbissimum est, quod habet eos accusatores non qui odio inimicitiarum ad accusandum, sed qui studio accusandi ad inimicitias descenderint. nam ut omittam Servium Sulpicium, quem intellego non iniuria L. Murenae, sed honoris contentione permotum, accusat paternus amicus, C. Postumus, vetus, ut ait ipse, vicinus ac necessarius, qui necessitudinis causas complures protulit, simultatis nullam commemorare potuit; accusat Ser. Sulpicius, sodalis filius, cuius ingenio paterni omnes necessarii munitiores esse debebant; accusat M. Cato, qui quamquam a Murena nulla re umquam alienus fuit, tamen ea condicione erat in hac civitate natus, ut eius opes et ingenium praesidio multis etiam alienissimis, exitio vix cuiquam inimico esse deberent.

*iudicarem*] discussed later in de Off. I. §§ 70, 71.

*non queam*] the regular form of the first person in Cicero. Freund cf. II in Verr. IV. § 89, pro Mil. § 77. so in third pers. pl., Tusc. D. II. § 65.

*nostrum*] 'us statesmen.'

*eventum*] the result of his public life.

*primum...deinde*] The two things are the same. Z. well cf. auct. ad Herenn. IV. § 54, *expolitio est, quum in eodem loco manemus et aliud atque aliud dicere videmur.*

*continuis*] cf. § 15.

*relicta*] Before this word H. inserts *ei.*

56. *odio inimicitiarum*] gen. of possession or relation. See on § 1, and cf. pro Mil. § 78. The sing. *inimicitia* seems only used in good prose as an abstract philosophical term.

*honoris contentione*] See on § 11.

*sodalis filius*] His father had belonged to some *collegium* with Murena, and such *sodales* were ordinarily expected to support each other. Also the son was expected to take the same course as his father.

*accusat*] This repetition is called ἀναφορά, cf. that of *negat* § 74, *nolite* § 80, *Verres* II in Verr. II. § 26.

*munitiores*] sc. rather than attacked.

*praesidio...exitio*] Roby Lat. Gr. II. xxv—lvi.

*etiam alienissimis*] cf. §§ 8, 45.

57 respondebo igitur Postumo primum, qui nescio quo pacto mihi videtur praetorius candidatus in consularem quasi desultorius in quadrigarum curriculum incurrere. cuius competitores si nihil deliquerunt, dignitati eorum concessit, cum petere destitit: sin autem eorum aliquis largitus est, expetendus amicis est, qui alienam potius iniuriam quam suam persequatur.

DE POSTUMI CRIMINIBUS. DE SERVII ADULESCENTIS.

58 XXVIII. venio nunc ad M. Catonem, quod est firmamentum ac robur totius accusationis, qui tamen ita gravis est accusator et vehemens, ut multo magis eius auctoritatem quam crimination pertimescam. in quo ego accusatore, iudices, primum

57. *desultorius*] sc. *equus*, a horse trained for the performance of the *desultor* in the circus. This person usually had two horses under command, Propert. v. (IV.) 2. 35, *eius traicit alterno qui leve pondus equo*, cf. Liv. XXIII. 29. These performances rank below the *quadrigae*, so that what Cicero means is, that Postumus, a candidate for an office inferior to the consulship, had better have left candidates for the latter to settle their own affairs. cf. also Suet. Julius 39, Liv. XLIV. 9.

*dignitati* etc.] Either they did not bribe, in which case Postumus has confessed their superiority; or they did, and then what a hearty friend is he who avenges the wrongs done to a friend rather than those done to himself; the point of the banter is that Postumus had better have taken his late defeat good-humouredly.

*amicis*] sc. he must be a very useful friend; irony, as he was hard on Murena, cf. § 56. So Z. after MS. Lag. 9, better than *amicus*. H. after O. Heine now reads *amicus ei*, i. e., Postumus needs another Postumus.

SERVII] sc. *criminibus*. These titles are added by Cicero himself, like those in pro Fonteio § 20. Pliny the younger, Epp. I. 20. 7, says, *testes sunt multae multorum orationes et Ciceronis pro Murena, pro Vareno, in quibus brevis et nuda quasi subscriptio quorundam criminum solis titulis indicatur; ex his apparet illum permulta dixisse, cum ederet, omisisse.*

XXVIII. 58. *quod*] When an observation is appended to an idea already sufficiently defined, the relative is accommodated to the substantive which follows, cf. Madv. § 316: add Phil. V. § 39, II. § 54 and Prof. Mayor's note.

*firmamentum ac robur*] so de imp. Gn. Pomp. § 10.

*tamen*] The editors leave this unnoticed; I believe that it requires some such explanation as the following: *auctoritatem* refers to *gravis*, and *criminationem* to *vehemens: ita ...ut*, as often, = 'though'...'yet,' cf. ad Att. V. 9. 2, *hoc tibi ita mando ut dubitem an etiam te rogem ut...*, 'while giving you this commission, I still am in doubt whether to go further and ask you to'...The sense of this passage will then be 'while as a prosecutor he is both weighty and energetic, still I feel far more afraid of the weight he may carry than of the charges he brings,' cf. on *abrogarim* § 5.

illud deprecabor, ne quid L. Murenae dignitas illius, ne quid exspectatio tribunatus, ne quid totius vitae splendor et gravitas noceat, denique ne ea soli huic obsint bona M. Catonis, quae ille adeptus est, ut multis prodesse possit. bis consul fuerat P. Africanus et duos terrores huius imperii, Karthaginem Numantiamque, deleverat, cum accusavit L. Cottam. erat in eo summa eloquentia, summa fides, summa integritas, auctoritas tanta quanta in imperio populi Romani, quod illius opera tenebatur. saepe hoc maiores natu dicere audivi, hanc accusatoris eximiam vim plurimum L. Cottae profuisse. noluerunt sapientissimi homines, qui tum rem illam iudicabant, ita quemquam cadere in iudicio, ut nimiis adversarii viribus abiectus videretur. quid? Ser. Galbam—nam traditum memoriae est 59
—nonne proavo tuo, fortissimo atque florentissimo viro, M. Catoni incumbenti ad eius perniciem populus Romanus eripuit? semper in hac civitate nimis magnis accusatorum opibus et populus universus et sapientes ac multum in posterum prospicientes iudices restiterunt. nolo accusator in iudicium potentiam adferat, non vim maiorem aliquam, non auctoritatem excellentem, non nimiam gratiam: valeant haec omnia ad salutem innocentium, ad opem impotentium, ad auxilium calamitosorum, in periculo vero et in pernicie civium repudientur. nam si quis hoc forte dicet, Catonem descensurum ad 60

*tribunatus*] He was *tribunus designatus*.

*bis consul*] B.C. 147 and 134. P. Corn. Scipio Aemilianus Africanus minor. See Mommsen, bk. IV. c. 1.

*duos terrores*] so called also in de Rep. I. § 71, Velleius, II. 4. 5.

*L. Aurel. Cotta*] consul in B.C. 144, in the Brutus § 82 we are told that he was thought a *veterator*, probably in reference to his oratory; but he is said to have bought his acquittal.

*tenebatur*] was maintained, upheld, cf. § 83, *totam rempublicam vos in hac causa tenetis*, de Nat. D. II. § 31.

*dicere audivi*] cf. Madv. § 395 obs. 5.

*cadere*] should lose his case, cf. *causa cadere* in § 9.

*abiectus*] overthrown, struck down, cf. in Catil. II. § 1, *se perculsum atque abiectum esse sentit*.

59. *quid?*] so § 33. cf. Madv. § 479 d, obs. 1.

*Ser. Sulpicius Galba*] who as praetor in Spain B.C. 151 had treacherously massacred 30,000 Lusitanians. Suet. Galba 3. For his oratorical power, his trial and acquittal, cf. Brutus § 89, de Orat. I. § 227.

*incumbenti ad*] cf. on § 53, and add in Catil. IV. § 4, *incumbite ad salutem reipublicae*.

*potentiam*] with inferiors, *gratiam*, with superiors in rank, standing, etc. cf. pro Caec. § 73, *quod neque inflecti*

accusandum non fuisse, nisi prius de causa iudicasset, iniquam legem, iudices, et miseram condicionem instituet periculis hominum, si existimabitur iudicium accusatoris in reum pro aliquo praeiudicio valere oportere.

xxix. ego tuum consilium, Cato, propter singulare animi mei de tua virtute iudicium, vituperare *nolo:* nonnulla forsitan conformare et leviter emendare possim. non multa peccas, inquit ille fortissimo viro senior magister, sed peccas; te regere possum. at ego verissime dixerim peccare te nihil neque ulla in re te esse huius modi, ut corrigendus potius quam leviter inflectendus esse videare. finxit enim te ipsa natura ad honestatem, gravitatem, temperantiam, magnitudinem animi, iustitiam, ad omnes denique virtutes [magnum hominem et excelsum]. accessit his doctrina non moderata nec mitis, sed, ut mihi videtur, paulo asperior et durior, quam
61 veritas aut natura patitur. et quoniam non est nobis haec

*gratia neque perfringi potentia neque adulterari pecunia possit.*

60. *de causa*] 'on the merits of the case.'

*legem...condicionem*] 'rule'...'principle.' So pro Caec. § 40. cf. also pro Flacco § 24, pro Cluent. § 150. Yet Cicero employs this very line of argument in pro Sulla § 85, as H. well points out.

*pro aliquo praeiudicio*] 'as a sort of recorded verdict.'

xxix. *nolo*] Boot's brilliant conjecture. The MSS. have a lacuna here, except one inferior one, which reads *non audeo.*

*conformare*] 'bring into the right shape.' H., and so Freund: better Madv. on de Fin. IV. § 5, *qua mores conformari putantur,* says *Ethica mores constituit et quales esse debeant quaerit et praecipit, hoc est, conformat.* 'Give you some rule to fashion yourself by.'

*magister*] Phoenix [or Chiron] to Achilles. Quint. VIII. vi. 29, 30 in speaking of *antonomasia, quae aliquid pro nomine ponit,* quotes this passage, adding *neutrum enim nomen est positum et utrumque intelligitur.*

*inquit*] 'says in the play.' A quotation from some old drama.

*peccas...regere*] The quotation is wittily chosen, embodying some cant terms of the Stoics. *rectum* = κατόρθωμα, cf. on § 3. *peccatum* = ἁμάρτημα, cf. on § 62.

*corrigendus*] to require 'setting-straight.' A strong word, cf. de Fin. I. § 17. [in Phil. II. § 43, pro Balbo § 20, Hor. Epp. I. 15. 37, *corrector* is particularly invidious.]

*inflectendus*] a much milder word. Z. well cf. de Divin. I. § 30, *leviter a summo inflexum bacillum,* 'with a slight bend.'

*finxit*] so de Orat. II. § 219, *natura enim fingit homines et creat imitatores.*

*ad*] 'for,' 'with a view to,' moral worth etc. It goes with *magnum* etc., cf. § 66.

*doctrina*] the teaching of a school. 'A set of tenets.' 'The creed of a sect.'

*veritas*] the 'realities of life,' *natura,* 'the feelings innate in us.' The passage in de Fin. IV. § 55 should be compared with this, cf. also § 65 inf.

oratio habenda apud imperitam multitudinem aut in aliquo conventu agrestium, audacius paulo de studiis humanitatis, quae et mihi et vobis nota et iucunda sunt, disputabo. in M. Catone, iudices, haec bona, quae videmus divina et egregia, ipsius scitote esse propria: quae nonnumquam requirimus, ea sunt omnia non a natura, verum a magistro. fuit enim quidam summo ingenio vir, Zeno, cuius inventorum aemuli Stoici nominantur. huius sententiae sunt et praecepta huius modi: sapientem gratia numquam moveri, numquam cuiusquam de-

*aut*] not *et*, as the comparison *durior...quam* has the force of a negative. T. cf. § 78, where *quisquam* is used for the same reason. H.

61. *apud imperitam multitudinem*] This is merely a flourish *ad benevolentiam captandam*, he says just the opposite in de Fin. IV. § 74, *omnia peccata paria dicitis. non ego tecum* (addressed to Cato) *iam ita iocabor, ut isdem his de rebus, cum L. Murenam te accusante defenderem: apud imperitos tum illa dicta sunt.* Plut. Cat. min. 21 tells us that when Cicero delivered this volley of ridicule against the Stoics and in particular against their paradoxes, Cato smiled and said 'what a witty consul we have.' Cicero afterwards wrote his six papers called παράδοξα by way of commending the morality of the Stoics to his countrymen.

*humanitatis*] education, especially of a higher kind, 'cultivation,'= παιδεία. In Cicero's time it is often used thus, cf. de Or. I. §§ 35, 71, II. §§ 40, 72, pro Arch. §§ 2, 3, etc.; but Gellius XIII. 17 (16) notices the disuse of this sense in his time and illustrates it from Varro. We have still the phrase 'professor of Humanity' in Scotland, and a school of *Litterae Humaniores* at Oxford. *studiis* with gen., cf. § 2.

*requirimus*]=*desideramus*, 'miss.' The use here is strange, and the true explanation is this. We miss compassion as an element in his character, i. e. we think him hard-hearted: but he is not so by nature, it is his master's teaching that has made him so. H. paraphrases 'we would fain see otherwise.' cf. Quint. XI. i. 70.

*Zeno* of Kition in the isle of Cyprus, a Greek station with some admixture of Phœnician blood in the population. He taught at Athens during the 4th century B.C. in the frescoed Porch (ποικίλη στοὰ), from which his school as well as himself got the name of Στωϊκοὶ or οἱ ἀπὸ τῆς στοᾶς. He passed into a proverb, τοῦ φιλοσόφου Ζήνωνος ἐγκρατέστερος. He was succeeded by Kleanthes and Kleanthes by Chrysippus. cf. Ritter and Preller §§ 391—393.

*inventorum*] Z. cf. de Or. I. § 84, *nisi qui philosophorum inventa didicisset.*

*aemuli*] 'students,' 'followers.' cf. pro Marcello § 2, de invent. I. § 43, Liv. I. 18, Tac. H. III. 81. probably an adaptation from Gk. ζηλοῦν, ζηλωτής.

*sententiae*] 'positions,' 'dogmas.' *praecepta*, 'teaching.' He does not here deal with the fundamental principles of the Stoic school, but with their 'dark sayings,' τὰ παράδοξα καλούμενα δόγματα, Plut. Cat. min. 21. Cicero renders παράδοξα by *admirabilia* in de Fin. IV. § 74. The Greek of Diogenes Laertius will be compared in the case of the several positions. Diog. L. book VII.

*sapientem*] the ideal Stoic wise man, opposed to *stultus*, σοφός, σπουδαῖος )( ἄφρων, φαῦλος. See Zeller, c. X.

*sapientem...placari*] ἐλεήμονάς τε

licto ignoscere; neminem misericordem esse nisi stultum et levem; viri non esse neque exorari neque placari; solos sapientes esse, si distortissimi sint, formosos, si mendicissimi, divites, si servitutem serviant, reges: nos autem, qui sapientes non sumus, fugitivos, exsules, hostes, insanos denique esse dicunt: omnia peccata esse paria, omne delictum scelus esse nefarium, nec minus delinquere eum, qui gallum gallinaceum, cum opus non fuerit, quam eum, qui patrem suffocaverit: sapientem nihil opinari, nullius rei paenitere, nulla in re falli,
62 sententiam mutare numquam. XXX. haec homo ingeniosissimus, M. Cato, auctoribus eruditissimis inductus arripuit, neque disputandi causa, ut magna pars, sed ita vivendi. petunt

μὴ εἶναι, συγγνώμην τε ἔχειν μηδενί. cf. Tusc. D. IV. § 18.

*viri*] a true man. A man worth the name. cf. § 63.

*solos...dicunt*] μόνον τε (τὸν σοφὸν) ἐλεύθερον, τοὺς δὲ φαύλους δούλους. οὐ μόνον δὲ ἐλευθέρους εἶναι τοὺς σοφούς, ἀλλὰ καὶ βασιλέας, τῆς βασιλείας οὔσης ἀρχῆς ἀνυπευθύνου, ἥτις περὶ μόνους ἂν τοὺς σοφοὺς σταίη. Freund adds Lucian's words, μόνος οὗτος σοφός, μόνος καλός, μόνος δίκαιος, ἀνδρεῖος, βασιλεύς, ῥήτωρ, πλούσιος, νομοθέτης καὶ τἆλλα ὁπόσα ἐστίν. cf. Cic. de Fin. IV. § 74, *nam ex eisdem verborum praestigiis et regna nata vobis sunt et imperia et divitiae, et tantae quidem, ut omnia quae ubique sint sapientis esse dicatis. solum praeterea formosum, solum liberum, solum civem; stultos omnia contraria, quos etiam insanos esse vultis*, Acad. pr. II. §§ 136, 144. The titles of the Paradoxa, 5 ὅτι μόνος ὁ σοφὸς ἐλεύθερος, 6 ὅτι μόνος ὁ σοφὸς πλούσιος, 4 ὅτι πᾶς ἄφρων μαίνεται, shew how Cicero coquetted with Stoicism. [See also the banter of Horace, Epp. I. 1. 106—108, Sat. I. 3. 124—142, II. 3. 40—46.]

*servitutem serviant*] cf. Gellius II. 18. 9, *Diogenes etiam Cynicus servitutem servivit*, the phrase is archaic, says Quint. VII. iii. 26. See Prof. Mayor's note on Cic. Phil. II. § 42, *dicta dicere.*

*omnia...suffocaverit*] ἀρέσκει τε αὐτοῖς ἴσα ἡγεῖσθαι τὰ ἁμαρτήματα· ...εἰ γὰρ ἀληθὲς ἀληθοῦς μᾶλλον οὐκ ἔστιν, οὐδὲ ψεῦδος ψεύδους, οὕτως οὐδὲ ἀπάτη ἀπάτης, οὐδὲ ἁμάρτημα ἁμαρτήματος. cf. de Fin. IV. § 74, Parad. 3 ὅτι ἴσα τὰ ἁμαρτήματα καὶ τὰ κατορθώματα. Hor. Sat. I. 3. 76—124.

*opinari*] emphatic. Never 'fancies' or 'supposes' anything. ἔτι τε μὴ δοξάσειν τὸν σοφόν· τουτέστι ψευδεῖ μὴ συγκαταθήσεσθαι μηδενί. He alone possesses true knowledge. cf. on *opinione* § 78.

XXX. 62. *auctoribus*] the ablative of the means, as the person stands for the thing implied, here for the *auctoritas* of his teachers. Madv. § 254 obs. 3. cf. pro Mil. § 47, *iacent suis testibus = his testimoniis* just above, Ar. Rhet. I. xv. 21, ὁποῖοι γὰρ ἂν τινες ὦσιν οἱ ἐπιγεγραμμένοι ἢ φυλάττοντες, τούτοις αἱ συνθῆκαι πιστοὶ εἰσιν.

*arripuit*] eagerly caught up, i. e., he was over-hasty. cf. § 13, Cat. mai. § 26, Corn. Nepos. Cato iii. 2. So *inductus* with glance at sense of 'misled,' 'taken in.'

*disputandi*] 'theorizing.' *vivendi*, for a rule of life.

*ut magna pars*] cf. the remarks on Helvidius Priscus, Tac. H. IV. 5.

*petunt* etc.] here a number of cases are put, in which the Stoic

aliquid publicani: 'cave quidquam habeat momenti gratia.' supplices aliqui veniunt miseri et calamitosi: 'sceleratus et nefarius fueris, si quidquam misericordia adductus feceris.' fatetur aliquis se peccasse et eius delicti veniam petit: 'nefarium est facinus ignoscere.' at leve delictum est: 'omnia peccata sunt paria.' dixisti quippiam: 'fixum et statutum est.' non re ductus es, sed opinione: 'sapiens nihil opinatur.' errasti aliqua in re: maledici putat. hac ex disciplina nobis illa sunt: 'dixi in senatu me nomen consularis candidati delaturum.' iratus dixisti. 'numquam' inquit 'sapiens irascitur.' at temporis causa. 'improbi' inquit 'hominis est mendacio fallere, mutare sententiam turpe est, exorari scelus, misereri flagitium.' nostri autem illi—fatebor enim, Cato, me 63
quoque in adulescentia diffisum ingenio meo quaesisse adiumenta doctrinae—, nostri, inquam, illi a Platone et Aristotele, moderati homines et temperati, aiunt apud sapientem valere aliquando gratiam: viri boni esse misereri, distincta genera

rules break down. The conversational form of parallel sentences is employed to throw into stronger relief the inapplicability of each dogma. cf. Madv. § 442 a obs. 2. the reply in each case is delivered in the character of Cato.

*publicani*] When they had tendered too high a price for the revenues, they sometimes petitioned the senate for a *remissio mercedum* or *ut induceretur locatio*. A case occurred in B.C. 61, and Cato acted just as Cicero describes here. cf. de Off. III. § 88, ad Att. I. 17. 9, 18. 7, Suet. Jul. 20.

*supplices*] 'in suppliant guise,' for *aliqui* (adj.) goes with *miseri et calamitosi* (subst.). H. Some provincials are probably meant.

*at*] 'why,' you urge, 'it is but an insignificant short-coming.'

*dixisti quippiam*] 'you have dropped some casual remark, perhaps.' But see Appendix C.

*opinione*] cf. Acad. pr. II. § 66, and note inf. § 78.

*nobis*] dat. ethicus. cf. §§ 13, 21, 74. 'It is to this Stoic training that we owe such arguments as.' *dixi*, I said, and *fixum et statutum est*.

*temporis causa*] either *dixisti*, 'you said it to serve the turn of the moment,' or with H. *ne nomen detuleris*, 'do not do it just now, at such a crisis.'

63. *nostri illi*] sc. *magistri*. Cicero's teachers, particularly Antiochus of Askalon, a free adherent of the New Academy.

*diffisum*] not *diffidentem*. cf. Madv. § 431 b.

*adiumenta*] the support that education gives. *doctrinae*, very like the *studia humanitatis* of § 61 in sense. For genitive cf. on §§ 1, 56.

*a Platone*] imitating the Gk. οἱ ἀπὸ Πλάτωνος etc., usually with *esse*, as de Fin. IV. § 7, *Zeno et ab eo qui sunt*. T.

*Plato* founder of the Academic school, *Aristotle* of the Peripatetic.

*moderati et temperati*] of no violent or extreme views.

*et*] and hence there is a corresponding difference in [the appropriate] punishments.

esse delictorum et dispares poenas, esse apud hominem constantem ignoscendi locum, ipsum sapientem saepe aliquid opinari [quod nesciat], irasci nonnumquam, exorari eundem et placari, quod dixerit interdum, si ita rectius sit, mutare, de sententia decedere aliquando: omnes virtutes mediocritate
64 quadam esse moderatas. XXXI. hos ad magistros si qua te fortuna, Cato, cum ista natura detulisset, non tu quidem vir melior esses nec fortior nec temperatior nec iustior—neque enim esse potes—, sed paulo ad lenitatem propensior. non accusares nullis adductus inimicitiis, nulla lacessitus iniuria, pudentissimum hominem, summa dignitate atque honestate praeditum; putares, cum in eiusdem anni custodia te atque L. Murenam fortuna posuisset, aliquo te cum hoc rei publicae vinculo esse coniunctum: quod atrociter in senatu dixisti, aut non dixisses aut seposuisses aut mitiorem in partem interpretarere.
65 ac te ipsum, quantum ego opinione auguror, nunc et animi quodam impetu concitatum et vi naturae atque ingenii elatum et recentibus praeceptorum studiis flagrantem iam usus flectet,

*quod nesciat*] ∓*quod non certum sciat.* T. well cf. the equally remarkable ad Att. XII. 23. 2, *de Oropo opinor sed certum nescio.*

*mediocritate*] Plato's μετριότης, Aristotle's μεσότης. cf. Ar. Eth. II. 6. 13, μεσότης τις ἄρα ἐστὶν ἡ ἀρετή, στοχαστικὴ γε οὖσα τοῦ μέσου, e.g. true bravery is the mean, rashness and cowardice being the extremes between which it lies. Also Cic. de Off. I. § 89.

*quadam*] as often, apologetic. Here he has just used *mediocritas* in a restricted sense as a translation of μεσότης. so *ut ita dicam.* cf. de Fin. II. § 11.

*moderatas*] are ruled, tempered. *esse*, 'are seen to be,' i.e. by the eye of the Philosopher.

xxxi. 64. *detulisset*] cf. de Off. I. § 47, *maior enim pars eo fere deferri solet quo a natura ipsa deducitur.* For *natura* cf. § 79.

*tu quidem*] cf. Madv. § 489 b.

*temperatior*] more self-controlled, σωφρονέστερος.

*inimicitiis*] cf. § 56.

*pudentissimum*] so in § 30 *pudor* = 'sense of honour.'

*custodia*] as tribune. cf. § 58.

*seposuisses*] would have set it aside. cf. Ov. Met. III. 318, where Jove is said *curas seposuisse graves.*

65. *auguror*] so de Or. I. § 95, *quantum auguror coniectura.*

*impetu*] 'rush.' Alluding to his hastiness, cf. § 62.

*concitatum*] 'roused,' 'over-excited.' cf. pro Flacco § 17, *non concitatae contionis, sed iurati senatus.* It implies a state of semi-insanity in some passages. With de Divin. II. § 27, *concitatione mentis edi et quasi fundi videbatur* compare Macbeth II. i. 39, 'proceeding from the heat-oppressed brain.'

*flagrantem*] cf. Cat. mai. § 50, *his studiis flagrantes. recentibus.* Cato was now 32.

*iam*] 'presently.' cf. pro Caelio § 77, *iam ista deferbuerint, iam aetas omnia, iam dies mitigarit.*

dies leniet, aetas mitigabit. etenim isti ipsi mihi videntur vestri praeceptores et virtutis magistri fines officiorum paulo longius, quam natura vellet, protulisse, ut, cum ad ultimum animo contendissemus, ibi tamen, ubi oporteret, consisteremus. 'nihil ignoveris:' immo aliquid, non omnia. 'nihil omnino gratiae concesseris—immo insistito, cum officium et fides postulabit. 'misericordia commotus ne sis': etiam, in dissolvenda severitate; sed tamen est laus aliqua humanitatis. 'in sententia permaneto': vero, nisi sententiam sententia alia vicerit melior. huiusce modi Scipio ille fuit, quem non paenite- 66
bat facere idem, quod tu 'habere eruditissimum hominem Panaetium domi, cuius oratione et praeceptis, quamquam erant eadem ista, quae te delectant, tamen asperior non est factus, sed, ut accepi a senibus, lenissimus. quis vero C.

*isti ipsi*] i.e. your very teachers need teaching. The sense of the passage is, 'they have set up an ideal beyond the reach of human frailty, and not without a reason: we must fall short of it, but then, if we aim high and fail, we still may do our duty.'

*natura*] cf. § 60, *quam veritas aut natura patitur.*

*ad ultimum*] to the furthest limit, i.e. to the highest perfection.

*ignoveris*] Madv. § 386. Here Cicero puts limitations to some of the extreme doctrines noticed above.

*concesseris*] so Z. from MS. Lag. 9.

*insistito*] 'stop,' or as we say 'draw the line.' The strong imperatives are here used with mock-solemnity, like a statute. cf. Hor. Sat. II. 1. 8, 9.

*fides*] 'honesty,' as in § 30.

*etiam*] a strong affirmative. cf. Acad. pr. II. § 104, *aut 'etiam' aut 'non' respondere possit*, de Nat. D. I. § 70, *in omnibus diiunctionibus in quibus 'aut etiam aut non' poneretur*, pro Rosc. Com. § 9 *si non..., si etiam*, Plin. Epp. VI. 2. 8, *at quaedam supervacua dicuntur. etiam, sed satius est et haec dici quam non dici necessaria.*

*dissolvenda*] 'relaxing.' cf. de Off. III. § 113, *fraus astringit, non dissolvit periurium.*

*severitate*] Z. cf. de Off. I. § 88, *et tamen ita probanda est mansuetudo atque clementia, ut adhibeatur reipublicae causa severitas, sine qua administrari civitas non potest.* The word = 'strictness,' 'firmness.'

*humanitatis*] here 'feelings,' almost 'sympathy.'

*vero*] a strong affirmative, cf. Tusc. D. II. § 26, *vero ac libenter quidem.* In § 45 it was used to add force in the last member of a climax.

*melior*] purposely put at the end like an after-thought, as Freund well remarks.

66. *Scipio*] the younger Africanus, § 58. He was murdered in 129 B.C. *non paenitebat = delectabat.*

*quod tu*] Cato had with great difficulty induced the aged Stoic Athenodorus Kordylion to come with him from Pergamus to Rome and dwell in his house, Plut. Cat. min. 10, 16, cf. also 4.

*Panaetium*] a famous Stoic from Rhodes. His intimacy with Scipio and Laelius is often mentioned by Cicero, e.g. de Fin. IV. § 23, de Rep. I. § 24. Also by Velleius I. 13. 3. His work περὶ καθήκοντος was followed by Cicero in the de Officiis.

*accepi*] Cicero was born in B.C. 106.

*lenissimus*] sc. *erat*, which has

Laelio comior? quis iucundior, eodem ex studio isto? quis illo gravior, sapientior? possum de L. Philo, de C. Gallo dicere haec eadem, sed te domum iam deducam tuam. quemquamne existimas Catone proavo tuo commodiorem, communiorem, moderatiorem fuisse ad omnem rationem humanitatis? de cuius praestanti virtute cum vere graviterque diceres, domesticum te habere dixisti exemplum ad imitandum. est illud quidem exemplum tibi propositum domi, sed tamen naturae similitudo illius ad te magis, qui ab illo ortus es, quam ad unum quemque nostrum pervenire potuit, ad imitandum vero tam mihi propositum exemplar illud est quam tibi. sed si illius comitatem et facilitatem tuae gravitati severitatique asperseris, non ista quidem erunt meliora, quae nunc sunt optima, sed certe condita iucundius.

67 XXXII. quare ut ad id, quod institui, revertar, tolle mihi e causa nomen Catonis, remove auctoritatem, quae in iudiciis

perhaps dropped out. Cicero cannot mean that Stoicism rendered him very gentle; rather, in spite of his Stoic training he retained his gentleness. H. This I doubt. We know that Panaetius modified the harsh doctrines of the Stoics to a considerable extent, de Fin. IV. § 79, and thus caused them to spread widely and take deep root at Rome.

*C. Laelio*] praetor B.C. 145, consul 140. He had the nickname *Sapiens*, was the bosom friend of the younger Scipio Africanus, Hor. Sat. II. 1. 72 *virtus Scipiadae et mitis sapientia Laeli*, and is taken by Cicero as a typical 'crony' to form the chief character in the dialogue on Friendship which bears his name. He did much to introduce Greek learning into Rome and was intimate with the Stoics Panaetius and Diogenes of Babylon. With this passage generally cf. de Or. II. § 154, de Rep. III. § 5.

*eodem ex studio*] so § 75. 'Of the same school.'

*L. Furius Philus*] consul B.C. 136.

*C. Sulp. Gallus*] consul B.C. 166.

*communiorem*] 'more sociable.' cf. Lael. § 65. Z. from MS. Lag. 9 *comiorem*, cf. pro Balbo § 36.

*humanitatis*] in every relation of social life.

*exemplum*] so Isocr. ad Demon. § 9, οὐ μὴν ἀλλὰ καὶ τὰς τοῦ πατρὸς προαιρέσεις ἀναμνησθεὶς οἰκεῖον καὶ καλὸν ἕξεις παράδειγμα τῶν ὑπ' ἐμοῦ σοι λεγομένων, and Mr Sandys' note.

*naturae similitudo*] = one word. 'Likeness of character.' *illius*. to him, i.e. his character. cf. *huius periculi propulsatio*, = from him, pro Sull. § 2.

*asperseris*] metaphor from cookery. cf. Orator § 87, *huic generi orationis aspergentur etiam sales*, pro Cluent. § 71, *Guttam aspergit huic Bulbo.*

*ista*] your peculiarities. *quidem*, Madv. § 489 b.

*condita*] so Cat. mai. § 10, *comitate condita gravitas*. 'Seasoned.'

xxxii. 67. *nomen Catonis*] 'the name Cato.' cf. § 13 *nomen voluptatis*, Phil. VIII. § 2, *belli nomen*. Madv. § 286.

*mihi*] dat. eth. cf. §§ 13, 21, etc.

aut nihil valere aut ad salutem debet valere: congredere mecum criminibus ipsis. quid accusas, Cato? quid adfers ad iudicium? quid arguis? ambitum accusas: non defendo. me reprehendis, quod idem defendam, qui lege punierim: punivi ambitum, non innocentiam, ambitum vero ipsum vel tecum accusabo, si voles. dixisti senatus consultum me referente esse factum: si mercede obviam candidatis issent, si conducti sectarentur, si gladiatoribus locus tributim, item prandia si vulgo essent data, contra legem Calpurniam factum videri. ergo ita senatus nisi iudicat, contra legem facta haec videri, si facta sint, decernit quod nihil opus est, dum candidatis morem gerit; nam factum sit necne, vehementer quaeritur: si factum sit, quin contra legem sit, dubitare nemo potest. est igitur ridiculum, quod est 68
dubium, id relinquere incertum: quod nemini dubium potest esse, id indicare. atque id decernitur omnibus postulantibus candidatis, ut ex senatus consulto neque cuius intersit neque contra quem sit intellegi possit. quare doce, a L. Murena illa esse commissa; tum egomet tibi contra legem commissa esse concedam.

XXXIII. 'multi obviam prodierunt de provincia decedenti.' eccui autem non proditur revertenti? 'quae fuit ista multi-

*congredere*] of fighting. Have it out with plain charges, i.e. with the several counts of the accusation.

*senatus consultum*] the sequel of which was the *lex Tullia*. cf. on §§ 46, 47.

*gladiatoribus*] at the gladiatorial shows. cf. Phil. IX. § 16 (*Ser. Sulpicio statuam statui*) *circumque eam statuam locum ludis gladiatoribusque liberos posterosque eius quoquo versus pedes quinque habere.* Madv. § 276, obs. 2.

*locus*] sc. *esset datus*, supplied from foll.

*vulgo*] cf. § 73.

*Calpurniam*] cf. on § 46.

*nisi*] so Z from MS. Lag. 9, and this reading alone seems to me to convey sense. Either (*a*) they decide that certain practices are to be held illegal, or (*b*) its resolution is purposely void of meaning, a piece of weak concession to the wealthy class (chiefly senators, cf. on § 47) who stand for office.

*si factum sit*] The subj. hints that the charge against Murena is not true. Z.

68. *indicare*] Z's simple and excellent correction of *iudicare*.

*omnibus*] and hence, by simply quoting it, there is no presumption raised that Murena did any of those things.

*doce.....tum concedam*] so de imp. Gn. Pomp. § 38, *recordamini..... tum statuetis*. cf. *doce.....concedam* in § 70.

XXXIII. *decedenti ..... revertenti*] 'when he quitted his province'..... 'when he came back to Rome.' In these cases the present (or imperf.) participle seems to lose its force,

tudo?' primum, si tibi istam rationem non possim reddere, quid habet admirationis, tali viro advenienti, candidato consulari, obviam prodisse multos? quod nisi esset factum, magis
69 mirandum videretur. quid? si etiam illud addam, quod a consuetudine non abhorret, rogatos esse multos, num aut criminosum est aut mirandum, qua in civitate rogati infimorum hominum filios prope de nocte ex ultima saepe urbe deductum venire soleamus, in ea non esse gravatos homines prodire hora tertia in campum Martium, praesertim talis viri nomine rogatos? quid? si omnes societates venerunt, quarum ex numero multi sedent iudices? quid? si multi homines nostri ordinis honestissimi? quid? si illa officiosissima, quae neminem patitur non honeste in urbem introire, tota natio candidatorum? si denique ipse accusator noster Postumus obviam cum bene magna caterva sua venit, quid habet ista multitudo admirationis? omitto clientes, vicinos, tribules, exercitum totum Luculli, qui ad triumphum per eos dies venerat: hoc dico, frequentiam in isto officio gratuitam non modo dignitati ullius

cf. pro Planc. § 65, *cum decedens e provincia* (Sicily) *Puteolos forte venissem*, Tac. Agr. 9, *revertentem*, 18, *ingredienti*, Ann. II. 69, *remeans*. The reason, no doubt, is that Rome was regarded as the centre of the world, as we say, the 'metropolis.' At this time, and for more than a year afterwards (till the *lex Julia* of B. C. 61), the provincial governors rendered account of their administration at Rome. Thus a man would, strictly speaking, be *decedens* or *revertens* until he had rendered account.

*istam rationem = istius rei rationem*] cf. Madv. § 314.

*habet*] 'involves,' 'causes.' cf. §§ 12, 87, 89, 69.

69. *deductum*] sc. *in forum*, as was the custom when youths first put on the *toga virilis*. This visit was called *tirocinium fori*, and was performed at early morning *(prope de nocte)*.

*prodire*] to go out of the city to meet him beyond the walls in the *campus Martius*, which seems to have been the ordinary place for meeting a friend *revertentem. nomine.* cf. § 82.

*societates*] the companies of revenue farmers *(publicani)* who belonged to the equestrian order. At this time two of the three panels *(decuriae)* of jurors were composed of *equites*. See App. B.

*natio*] Z cf. in Pis. § 55, *ne de officiosissima quidem natione candidatorum*. The word is depreciatory, cf. pro Sest. §§ 96, 97, de Nat. D. II. § 74. Add Phaedrus, II. 5, *est ardelionum quaedam Romae natio.*

*bene magna*] as we say, 'a good large' throng. cf. de Or. II. § 361, *sermonem bene longum hominis.*

*exercitum*] cf. § 37.

*hoc dico*] 'but this much I will say.' *non modo.* 'I do not say to enhance a man's personal credit, but simply to give him satisfaction.' cf. de imp. Gn. Pomp. § 66.

*gratuitam*] voluntary, opposed to *mercede.*

umquam, sed ne voluptati quidem defuisse. 'at sectabantur 70
multi.' doce mercede: concedam esse crimen. hoc quidem remoto, quid reprehendis? 'quid opus est,' inquit, 'sectatoribus?' XXXIV. a me tu id quaeris, quid opus sit eo, quo semper usi sumus? homines tenues unum habent in nostrum ordinem aut promerendi aut referendi beneficii locum, hanc in nostris petitionibus operam atque adsectationem. neque enim fieri potest neque postulandum est a nobis aut ab equitibus Romanis, ut suos necessarios candidatos adsectentur totos dies, a quibus si domus nostra celebratur, si interdum ad forum deducimur, si uno basilicae spatio honestamur, diligenter observari videmur et coli: tenuiorum amicorum et non occupatorum est ista assiduitas, quorum copia bonis viris et beneficis deesse non solet. noli igitur eripere hunc inferiori generi hominum fruc- 71
tum officii, Cato: sine eos, qui omnia a nobis sperant, habere ipsos quoque aliquid, quod nobis tribuere possint. si nihil erit praeter ipsorum suffragium, tenue est, si, ut suffragentur, nihil valent gratia. ipsi denique ut solent loqui non dicere pro nobis, non spondere, non vocare domum suam possunt. atque haec a nobis petunt omnia neque ulla re alia, quae a nobis consequuntur, nisi opera sua compensari putant posse. itaque et legi Fabiae, quae est de numero sectatorum, et senatus consulto, quod est L. Caesare consule factum, resti-

70. *at*] The second clause is now dealt with. cf. § 67. *sectabantur*. sc. during the canvass.

XXXIV. *nobis*] 'us senators.'

*candidatos*] when they have on their *toga candida*, i.e. are openly engaged in canvassing.

*a quibus si*.....] so auct. petit. cons. § 34 gives the three kinds of *adsectatio*, viz., *salutatorum, deductorum, adsectatorum*.

*spatio*] with a single turn in a public hall. The *basilicae* were used (a) as courts of justice, (b) as promenades.

71. *si ut suffragentur*] sc. *erit*, to be supplied from above. 'If it is to be their support in canvassing,—why, their influence is nothing.' We find *suffragari* continually used in this sense. de Off. I. § 138, *domus suffragata domino*, pro Planc. § 1, etc., but the best instance is auct. petit. cons. § 28, *in eo quem homines ignoti, nullis suffragantibus, honore adficiant*, i.e. without the intervention of *suffragatores*. cf. §§ 16, 44.

*spondere*] become security for us. pro Planc. § 47, *quod multis benigne fecerit, pro multis spoponderit*.

*legi Fabiae*] Nothing more is known about this. Probably it was passed about B.C. 66 or 65 as a supplement to the *lex Calpurnia*. Z.

*L. Caesare consule*] B.C. 64. The definition of the time by the name of *one* consul only is strange but cf. de prov. cons. § 45, *Iulias leges et ceteras illo consule rogatas*. Probably only the consul who presided at the

terunt; nulla est enim poena, quae possit observantiam tenui-
72 orum ab hoc vetere instituto officiorum excludere. 'at spectacula sunt tributim data et ad prandium vulgo vocati.' etsi hoc factum a Murena omnino, iudices, non est, ab eius amicis autem more et modo factum est, tamen admonitus re ipsa recordor, quantum hae conquestiones in senatu habitae punctorum nobis, Servi, detraxerint. quod enim tempus fuit aut nostra aut patrum nostrorum memoria, quo haec, sive ambitio est sive liberalitas, non fuerit, ut locus et in circo et in foro daretur amicis et tribulibus? haec homines tenuiores a suis tribulibus vetere instituto adsequebantur.

73 XXXV... praefectum fabrum semel locum tribulibus suis dedisse: quid statuent in viros primarios, qui in circo totas tabernas tribulium causa compararunt? haec omnia sectatorum, spectaculorum, prandiorum crimina a multitudine in tuam nimiam diligentiam, Servi, conlecta sunt, in quibus tamen

debate is mentioned. H. Nothing is known of the matter.

*restiterunt*] paid no attention to it, made it a dead letter.

72. *spectacula*] seats for seeing the games from. cf. pro Sest. § 124, Liv. I. 35, *ubi spectacula sibi quisque facerent.. ...spectavere furcis spectacula alta sustinentibus*, XLV. 1, Ov. Met. X. 668, *resonant spectacula plausu.*

*etsi.....tamen*] though this is really not to the point, yet the mention of it serves to remind me that.....

*more et modo*] so *nihil more, nihil modo*, in pro Scauro § 37. T.

*hae conquestiones*] 'complaints of this sort.' cf. on § 7.

*punctorum*] = *suffragiorum*. cf. pro. Planc. § 53, Hor. A. P. 343.

*nobis*] 'us' = our side. Cic. had supported Servius. cf. § 7.

*ambitio*] lawful *adfectatio honoris*, opposed to *ambitus*, unlawful. cf. pro Planc. § 45, *cum ambitionis nostrae tempora postulabant. liberalitas*, cf. § 77.

*in foro*] where the gladiators were exhibited, before the days of amphitheatres.

*tribulibus*] the fellow-tribesmen of the candidates. But the charge brought against Murena was *spectacula tributim data*, i.e. to whole tribes at a time. H.

*adsequebantur*] here there is a lacuna in the MSS.

XXXV. 73. Mommsen supplies sense thus [*quodsi criminosum videtur amicum quendam Murenae,*] *praefectum*.....H.

*praefectum fabrum*] 'an officer of engineers.' cf. Caes. B. C. I. 24.

*tabernas*] either 'boxes,' i.e. booths with seats (H.), or 'blocks of seats,' i.e. strictly the entrance arcades which gave access to the several blocks (Z.), cf. Tac. Ann. XV. 38, Dionys. Hal. III. 68.

*compararunt*] have 'taken,' as we say, i.e. hired.

*diligentiam*] cf. pro Ligar. § 1, *quoniam diligentia inimici investigatum est quod latebat.*

*conlecta*] flung upon, 'laid to the door of your over-activity in hunting up charges against your rivals.' cf. II in Verr. II. § 18, *o praeclare coniectum a vulgo in illam provinciam omen comunis famae atque sermonis.*

Murena senatus auctoritate defenditur. quid enim? senatus num obviam prodire crimen putat? 'non, sed mercede:' convince. num sectari multos? 'non, sed conductos:' doce. num locum ad spectandum dare aut ad prandium invitare? 'minime, sed vulgo.' quid est vulgo? 'universos.' non igitur, si L. Natta, summo loco adulescens, qui et quo animo iam sit et qualis vir futurus sit videmus, in equitum centuriis voluit esse et ad hoc officium necessitudinis et ad reliquum tempus gratiosus, id erit eius vitrico fraudi aut crimini, nec, si virgo Vestalis, huius propinqua et necessaria, locum suum gladiatorium concessit huic, non et illa pie fecit et hic a culpa est remotus. omnia haec sunt officia necessariorum, commoda tenuiorum, munia candidatorum.

at enim agit mecum austere et stoice Cato: negat verum 74
esse adlici benevolentiam cibo, negat iudicium hominum in magistratibus mandandis corrumpi voluptatibus oportere. ergo, ad cenam petitionis causa si quis vocat, condemnetur? 'quippe' inquit; 'tu mihi summum imperium, tu summam auctoritatem, tu gubernacula rei publicae petas fovendis homi-

*auctoritate*] the 'expressed will' of the Senate=*consultum*, as in de Leg. II. § 37, *senatus vetus auctoritas de Bacchanalibus*, ad Fam. I. 2. 4, *de his rebus senatus auctoritas gravissima intercessit*. cf. sup. § 67.

*num locum...dare*] Campe suspects that the answer to this (*non, sed tributim*. cf. § 67) has dropped out. H.

*universos*] this question and answer is quoted by Quint. VII. iii. 16.

*L. Pinarius Natta*] As pontiff in B.C. 58 he joined in the destruction of Cicero's house.

*centuriis*] there were 18 of *equites*.

*necessitudinis*] the service which his close connection demanded. cf. div. in Caec. § 14, pro Sest. § 10, *officium vicinitatis*. For gen. cf. on § 1.

*ad reliquum tempus*] sc. *petitionis Murenae*. Z, which seems nonsense, but it is hard to see what it does mean. Perhaps simply 'for the future,' i.e. with an eye to needing their support one day himself.

*propinqua*] perhaps a *Licinia*. H.

*gladiatorium*] cf. pro Sest. § 124, *consessu gladiatorio*. Z, who thinks that the places were those kept for all the six Vestals. The conjecture *gladiatoribus* is unnecessary. Add pro Sest. § 115.

*munia*] 'services,' 'functions,' a rare word in Cicero, but found pro Sest. § 138. H.

74. *verum*] 'right,' 'fair,' as often. cf. Tusc. D. III. § 73, Verg. Aen. XII. 694, Hor. Epp. I. 7. 98.

*quippe*] in answers='what then?' i.e. 'certainly,' 'to be sure.' cf. pro Caec. § 55, de Fin. V. § 84, IV. § 7. Festus, p. 257 M. says that it=*quidni*.

*tu.....tu*] For the ἀναφορά cf. Tusc. D. V. § 5.

*mihi*] dat. ethicus. cf. § 13.

*petas*] 'are you to be allowed to seek?'.....Madv. § 353 quotes Ter. Hec. IV. 2. 13, *ex urbe rus tu habitatum migres?*

num sensibus et deleniendis animis et adhibendis voluptatibus? utrum lenocinium, inquit, a grege delicatae iuventutis an orbis terrarum imperium a populo Romano petebas?' horribilis oratio, sed eam usus, vita, mores, civitas ipsa respuit. neque enim Lacedaemonii, auctores istius vitae atque orationis, qui cotidianis epulis in robore accumbunt, neque vero Cretes, quorum nemo gustavit umquam cubans, melius quam Romani homines, qui tempora voluptatis laborisque dispertiunt, res publicas suas retinuerunt: quorum alteri uno adventu nostri exercitus deleti sunt, alteri nostri imperii praesidio disciplinam
75 suam legesque conservant. xxxvi. quare noli, Cato, maiorum instituta, quae res ipsa, quae diuturnitas imperii comprobat, nimium severa oratione reprehendere. fuit eodem ex studio vir eruditus apud patres nostros et honestus homo et nobilis, Q. Tubero. is, cum epulum Q. Maximus P. Africani patrui sui nomine populo Romano daret, rogatus est a Maximo, ut triclinium sterneret, cum esset Tubero eiusdem Africani sororis filius. atque ille, homo eruditissimus ac Stoicus, stravit pelli-

*delicatae*] cf. ad Att. I. 19. 8, *libidinosae et delicatae iuventutis.*

*horribilis*] 'awful,' with sarcastic horror. cf. Catull. XIV. 12, *di magni, horribilem et sacrum libellum.*

*civitas*] the spirit of our institutions.

*cotidianis*] sc. the συσσίτια or φιδίτια. The Cretan messes were called ἀνδρία.

*in robore*] on hard oaken benches, ἐπὶ τοῦ κλιντηρίου ψιλοῦ. Athen. 142 a.

*cubans*] leaning on the elbow or a cushion. They ate καθήμενοι.

*alteri*] The proconsul Q. Caecil. Metellus (hence called *Creticus*) subdued the Cretans, B.C. 68—67.

*alteri*] Since the break-up of the Achaian League and the destruction of Corinth (B.C. 146), the Spartans had been protected dependants of Rome.

xxxvi. 75. *eodem ex studio*] so in § 66.

*Q. Aelius Tubero*] a grandson of L. Aemilius Paullus. Q. Fabius *Maximus Allobrogicus* was a grandson, and this Scipio (cf. on § 58) a son of the same, adopted by a son of Scipio Africanus the Elder. Tubero was a noted Stoic, cf. Brutus § 117, de Or. III. § 87. Also a learned jurist, cf. Gellius, I. 22, 7. Scipio was found dead in his bed, not without some suspicion of foul play, B.C. 129. cf. Mommsen, bk. IV. c. 3.

*epulum*] a funeral banquet.

*nomine*] 'in honour of.' This use is very nearly the same as that in §§ 69, 82.

*triclinium*] a table with a set of three couches. See Rich, dict. ant.

*sterneret*] 'lay.' Implies not merely the providing of rugs, &c., for the couches, but also the dishes for the table. H.

*ac Stoicus*] ironically thrown in, as if it were a step higher than *homo eruditissimus.* 'And a Stoic to boot.'

*pelliculis*] 'with shabby goat-skins,' instead of rich coverlets and cushions.

culis haedinis lectulos Punicanos et exposuit vasa Samia, quasi vero esset Diogenes Cynicus mortuus et non divini hominis Africani mors honestaretur: quem cum supremo eius die Maximus laudaret, grātias egit dis immortalibus, quod ille vir in hac re publica potissimum natus esset; necesse enim fuisse, ibi esse terrarum imperium, ubi ille esset. huius in morte celebranda graviter tulit populus Romanus hanc perversam sapientiam Tuberonis. itaque homo integerrimus, civis opti- 76
mus, cum esset L. Pauli nepos, P. Africani, ut dixi, sororis filius, his haedinis pelliculis praetura deiectus est. odit populus Romanus privatam luxuriam, publicam magnificentiam diligit; non amat profusas epulas, sordes et inhumanitatem multo minus. distinguit rationem officiorum ac temporum, vicissitudinem laboris ac voluptatis. nam quod ais nulla re adlici hominum mentes oportere ad magistratum mandandum nisi dignitate, hoc tu ipse, in quo summa est dignitas, non servas. cur enim quemquam, ut studeat tibi, ut te adiuvet, rogas? rogas tu me, ut mihi praesis, ut committam ego me tibi? quid tandem? istuc me rogari oportet abs te an te potius

*lectulos Punicanos*] wooden benches of the Punic pattern, to serve as *lecti*. H. But see Appendix D.

*vasa Samia*] earthenware, not, as they should have been, of metal, e.g. Corinthian bronze: [not silver, as Fabius had himself not much of that, Plin. H. N. XXXIII. 141.] Z. cf. auct. ad Herenn. IV. 64, *utatur (argento) licet, nos Samiis delectabimur*. H.

*Diogenes*] of Sinope, the most celebrated of the Κυνικοί. He was noted for his plain-speaking (παρρησία), and for his devotion to proving the smallness of human needs. His tub is well known. The Cynics were in many points the moral forerunners of the Stoics.

*et non*] 'instead of.'

*supremo die*] his funeral.

*laudaret*] the funeral oration, delivered in the Forum at the Rostra by some relative of the deceased.

*sapientiam*] 'philosophy.'

76. *deiectus est*] = *in praeturae petitione repulsam tulit*. cf. I in Verr. § 23, *si me aedilitate deiecissent*.

*odit.....diligit*] quoted by Quint. IX. iii. 82, as an instance of the figure *distinctio*.

*privatam.....publicam*] For sense cf. pro Flacco § 28, Hor. Carm. II. 15, 13, *privatus illus census erat brevis, commune magnum*.

*inhumanitatem*] 'boorishness,' want of refinement. cf. § 66.

*distinguit...voluptatis*] The thought is the same as § 74, *qui tempora voluptatis laborisque dispertiunt*. But what it does here I know not. H. well remarks that *nam quod ais*, etc. refers to the *sordes*, etc. above, and that this is probably an addition by some later hand. It is, however, good Latin enough: I only doubt the term *voluptas* of a funeral-banquet.

*ut mihi praesis*] = *ut tibi liceat mihi praeesse*. H.

*quid tandem?*] what is one to say? 'dear me!'

a me, ut pro mea salute laborem periculumque suscipias? 77 quid, quod habes nomenclatorem? in eo quidem fallis et decipis. nam si nomine appellari abs te cives tuos honestum est, turpe est eos notiores esse servo tuo quam tibi. sin etiam, cum noris, tamen per monitorem appellandi sunt, cur nomen petis quasi incertum sit? quid, quod, cum admoneris, tamen quasi tute noris, ita salutas? quod, posteaquam es designatus, multo salutas neglegentius? haec omnia ad rationem civitatis si derigas, recta sunt: sin perpendere ad disciplinae praecepta velis, reperiantur pravissima. quare nec plebi Romanae eripiendi fructus isti sunt ludorum, gladiatorum, conviviorum, quae omnia maiores nostri comparaverunt, nec candidatis ista benignitas adimenda est, quae liberalitatem magis significat quam largitionem.

78 XXXVII. at enim te ad accusandum res publica adduxit. credo Cato, te isto animo atque ea opinione venisse, sed tu impru-

*te potius a me*] For this question cf. Plato Rep. 345—6, Ar. Pol. II. ii. 6. The Stoic dogma is given by Diog. L. VII. 121, πολιτεύσεσθαι φασὶ τὸν σοφόν, ἂν μή τι κωλύῃ..... καὶ γὰρ κακίαν ἐφέξειν, καὶ ἐπ' ἀρετὴν παρορμήσειν.

77. *nomenclatorem*] These must have been at this time allowed by law, for in B.C. 72 when Cato was candidate for the military tribuneship, νόμου γραφέντος ὅπως τοῖς παραγγέλλουσιν εἰς ἀρχὴν ὀνοματολόγοι μὴ παρῶσι, χιλιαρχίαν μετιὼν μόνος ἐπείθετο τῷ νόμῳ, Plut. Cato, 8.

*sin etiam*.....etc.] very mutilated in the MSS. H. gives it up. I have taken his *etiam cum*, and Z.'s *quasi. incertum sit* is from MS. Lag. 9. 'But if, even in case of men whom you know, you must needs make a show of asking your recognition-agent before addressing them, why is it that you ask "who is this coming?" making as though you did not know the man?' I admit that this is forced, but the passage is too far gone for any clear or certain explanation.

*rationem civitatis*]=*civitas* § 74.

*derigas ad*]=judge by the standard of....., guide by.....cf. § 3, *ad normam derigenti*, de Or. I. § 130, *ut ad hanc similitudinem huius histrionis oratoriam laudem derigamus.* de Rep. II. § 55, *exempla ad quae reliqua oratio derigatur mea.* So with abl. de Fin. II. § 7, *voluptate omnia dirigentes.* The MSS. vary as to the form of the word.

*recta*] cf. on § 3. *Pravum* or *curvum* is the Stoic antithesis to *rectum.* cf. Hor. Epp. II. 2. 44. Persius III. 52, IV. 11, V. 38.

*perpendere*] test by weighing them in the Stoic scale of right and wrong. cf. § 3.

*reperiantur*] 'must surely be found,' though of course I leave it to a Stoic like yourself to decide. cf. Madv. § 350 b. For the matter of this passage H. cf. de Or. I. § 112.

*comparaverunt*]=*instituerunt.* cf. auct. ad Herenn. IV. § 23, *bene maiores nostri hoc comparaverunt.*

xxxvii. 78. *res publica*] the common weal. State interests.

*isto*.....*ea*] H. treats this as a case in which one demonstr. pronoun (as often) is caught up by another, re-

dentia laberis. ego quod facio, iudices, cum amicitiae dignitatisque L. Murenae gratia facio, tum me pacis, otii, concordiae, libertatis, salutis, vitae denique omnium nostrum causa facere clamo atque testor. audite, audite consulem, iudices, nihil dicam adrogantius, tantum dicam, totos dies atque noctes de re publica cogitantem! non usque eo L. Catilina rem publicam despexit atque contempsit, ut ea copia, quam secum eduxit, se hanc civitatem oppressurum arbitraretur. latius patet illius sceleris contagio, quam quisquam putat, ad plures pertinet. intus, intus, inquam, est equus Troianus, a quo numquam me consule dormientes opprimemini. quaeris a me, 79
ecquid ego Catilinam metuam. nihil, et curavi ne quis metueret, sed copias illius, quas hic video, dico esse metuendas; nec tam timendus est nunc exercitus L. Catilinae quam isti, qui illum exercitum deseruisse dicuntur. non enim deseruerunt, sed ab illo in speculis atque insidiis relicti in capite atque in cervicibus nostris restiterunt. hi et integrum consulem et

ferring to Nägelsbach Stil. § 93. 1. Add. Madv. § 489 a. But *ea* goes with *opinione;* it does not catch up *isto*. Z. rightly explains *isto animo* as 'your usual spirit.' cf. § 64, *cum ista natura*, 'with the temperament we all know so well.' *ea opinione* = 'that belief,' viz. that the common weal demands the condemnation of Murena. The sense then will be, 'I readily believe that it was your well-known patriotism, backed by the belief that in this case you had taken the side of your country, that brought you here.' cf. Madv. § 486.

*opinione*] There is a certain archness in this word: Cicero insinuates that Cato 'supposes' or 'believes' (I use the word in the modern sense) something at last. cf. §§ 61, 62, 63.

*laberis*] i.e. your patriotism is deceived; you are on the wrong side, for Rome needs a consul like Murena. T. cf. pro Marcell. § 20, *viris non cupiditate aliqua aut pravitate lapsis sed opinione officii.*

*copia*] the sing. is rare in this sense. Z. suggests that it is used to shew that in Cicero's opinion the force outside is not so dangerous as are the forces of conspirators (*copiae*) in the city. cf. in Catil. I. § 9.

*quisquam*] cf. on § 60. *intus, intus.* cf. in Catil. II. § 11.

*dormientes*] Verg. Aen. II. 265, *invadunt urbem somno vinoque sepultam.*

79. *ego*] Cicero had left the charge of the war to his colleague Antonius. Z.

*quas hic video*] in Catil. II. § 5, *hos, quos video volitare in foro.*

*nec tam.....*] in Catil. II. § 5, *non tam exercitum illum esse nobis quam hos, qui exercitum deseruerunt, pertimescendos.*

*dicuntur*] sc. it is merely a lie, a stratagem, that they may catch us napping. Z. with MS. Lag. 9 reads *videntur.*

*cervicibus*] Z. quotes ad Fam. XII. 23. 2, *easque (legiones) in cervicibus nostris collocare.*

*restiterunt*] have stopped behind. cf. Liv. XXXVII. 21, *ut nemo pugnandi causa restiterit.*

bonum imperatorem et natura et fortuna cum rei publicae salute coniunctum deici de urbis praesidio et de custodia civitatis vestris sententiis deturbari volunt. quorum ego ferrum et audaciam reieci in campo, debilitavi in foro, compressi etiam domi meae saepe, iudices, his vos si alterum consulem tradideritis, plus multo erunt vestris sententiis quam suis gladiis consecuti. magni interest, iudices, id quod ego multis repugnantibus egi atque perfeci, esse Kalendis Ianuariis in re
80 publica duos consules. nolite arbitrari, mediocribus consiliis aut usitatis vitiis aut * *; non lex improba, non perniciosa largitio, non auditum aliquando aliquod malum rei publicae quaeritur; inita sunt in hac civitate consilia, iudices, urbis

*natura*] 'character,' 'temperament.' cf. § 64.

*fortuna*] 'circumstances,' 'position. cf. § 83.

*deici*] 'be dislodged,' a military term. *deicere praesidium* (a guard) is common in Caesar, and cf. Hor. Epp. II. 2. 30, *praesidium regale loco deiecit, ut aiunt, summe munito et multarum divite rerum.* cf. also § 82.

*custodia*] cf. § 64.

*reieci*] 'have repelled.' cf. ad Fam. II. 10. 2, *feliciter ab Antiochea hostem reiecerat.* 'Have foiled' probably comes nearest to the sense. See the metaphor from gladiators' thrusts, in Catil. I. § 15 with Mr Wilkins' note.

*in campo*] cf. § 52.

*debilitavi*] so §§ 80, 43. The word properly means to 'cripple,' 'maim.' cf. Liv. XXI. 40, Gaius, III. 146, *debilitati* opp. to *integri* of gladiators after a fight. cf. also § 82. *in foro* refers, I think, especially to the second speech against Catiline. See the menace in § 6 of that speech.

*compressi*] so Phil. II. § 21, *impetum tuum compressisset.* 'Have stopped,' 'brought up sharp.' Sallust says *ianua prohibiti.*

*domi meae*] alluding to the attempt of G. Cornelius and L. Vargunteius on his life. cf. in Catil. I. §§ 9, 10, *Sall. Cat. 28. add* pro Sulla § 18.

*saepe*] Cicero speaks of previous attempts in Catil. I. §§ 11, 15, but there as here he is probably exaggerating the fact by way of frightening the jury.

*his vos si=hi, si vos iis.* H.

*egi atque perfeci*] sc. I stood out against the further delay of the consular election, and carried it through in spite of danger. cf. § 52. T.

*duos*] cf. § 4. This was the argument that procured Murena's acquittal, as Cicero says, pro Flacco § 98, *nemo illorum iudicum clarissimis viris accusantibus audiendum sibi de ambitu putavit cum bellum iam gerente Catilina omnes me auctore duos consules Kalendis Ianuariis scirent esse oportere.* Quintilian VI. i. 35 remarks the same.

80. *vitiis*] so the MSS. Z justifies *usitatis* by II in Verr. II. § 9, *si usitato more peccasset.* The lacuna which follows is filled up thus by Fr. Richter, *aut* [*humana ac toleranda audacia ab istis desperatis hominibus agi*]. H.

*largitio*] cf. on § 24.

*rei publicae*] dative after *malum. quaeritur*, is aimed at, sc. by the conspirators.

*inita sunt*] in the passive this phrase is always used with gen. of the gerundive. *inire consilium* sometimes takes infinitive. Madv. § 417 obs. 2. cf. § 81.

delendae, civium trucidandorum, nominis Romani exstinguendi. atque sic cives, cives inquam, si eos hoc nomine appellari fas est, de patria sua et cogitant et cogitaverunt. horum ego cotidie consiliis occurro, audaciam debilito, sceleri resisto, sed moneo, iudices: in exitu iam est meus consulatus: nolite mihi subtrahere vicarium meae diligentiae, nolite adimere eum, cui rem publicam cupio tradere incolumem ab his tantis periculis defendendam.

XXXVIII. atque ad haec mala, iudices, quid accedat aliud, **81** non videtis? te, te appello, Cato: nonne prospicis tempestatem anni tui? iam enim in hesterna contione intonuit vox perniciosa designati tribuni, collegae tui, contra quem multum tua mens, multum omnes boni providerunt, qui te ad tribunatus petitionem vocaverunt. omnia, quae per hoc triennium agitata sunt, iam ab eo tempore, quo a L. Catilina et Cn. Pisone initum consilium senatus interficiendi scitis esse, in hos dies, in hos menses, in hoc tempus erumpunt. qui locus est, iudi- **82** ces, quod tempus, qui dies, quae nox, cum ego non ex istorum insidiis ac mucronibus non solum meo, sed multo etiam magis

*moneo*] The construction is changed: it would, if regular, run on *in exitu iam esse meum consulatum.*

*tradere*] cf. § 3.

*incolumem*] with *defendendam*, cf. pro Flacco § 98, *incolumis est reipublicae conservatus*, pro Planc. § 12.

XXXVIII. 81. *non*] with doubt and surprise, but implying that the answer is expected in the negative. Madv. § 450. *nonne*, 'you surely must' see the storm brewing ahead of you, for you are elected tribune for next year and must have looked forward, while it is just barely possible that the jury may need reminding. Madv. § 451 c.

*contione*] Probably he had attacked Cicero's measures against the conspiracy of Catiline.

*intonuit*] carrying out the metaphor of *tempestatem*. See the story in Plut. Cato 20, δίκην σκήπτου.

*collegae tui*] Q. Metellus Nepos, who when Cicero at the end of the year laid down his consulship prevented him from delivering the usual address to the people. cf. ad Fam. v. 2. 7. he was afterwards reconciled to Cicero by P. Servilius Vatia, and in 57 B.C. supported his recall from exile.

*tua mens*] He had been urged to stand for the tribuneship, but had refused. When however he found that Metellus was going to stand, he changed his mind, and came forward ὡς ἀντιταξόμενος πρὸς τὸν Μέτελλον, Plut. Cato 20.

*eo tempore*] the first Catilinarian conspiracy, at the end of B.C. 66. cf. Sall. Cat. 18.

*erumpunt*] are bursting forth upon this season. so in Catil. I. § 31, *omnium scelerum maturitas in nostri consulatus tempus erupit*, the metaphor is the same as above.

82. *insidiis*] cf. in Catil. IV. § 2. T.

*cum...evolem*] Madv. § 358 obs. 4.

divino consilio eripiar atque evolem? neque isti me meo nomine interficere, sed vigilantem consulem de rei publicae praesidio demovere volunt; nec minus vellent, Cato, te quoque aliqua ratione, si possent, tollere, id quod, mihi crede, et agunt et moliuntur. vident, quantum in te sit animi, quantum ingenii, quantum auctoritatis, quantum rei publicae praesidii: sed cum consulari auctoritate et auxilio spoliatam vim tribuniciam viderint, tum se facilius inermem et debilitatum te oppressuros arbitrantur. nam ne sufficiatur consul, non timent: vident in tuorum potestate collegarum fore, sperant sibi Silanum, clarum virum, sine collega, te sine consule, rem
83 publicam sine praesidio obici posse. his tantis in rebus tantisque in periculis est tuum, M. Cato, qui mihi non tibi, sed patriae natus esse videris, [videre quid agatur,] retinere adiutorem, defensorem, socium in re publica, consulem non cupidum, consulem, quod maxime hoc tempus postulat, fortuna constitutum ad amplexandum otium, scientia ad bellum gerendum, animo et usu ad quod velis negotium.

xxxix. quamquam huiusce rei potestas omnis in vobis sita est, iudices: totam rem publicam vos in hac causa tenetis, vos gubernatis. si L. Catilina cum suo consilio nefariorum homi-

*meo nomine*] on my own account, 'as Cicero.' cf. § 69, *talis viri nomine*, 'in the cause of a man of that sort.'

*agunt*] have in view; *moliuntur*, are working to effect. Cicero is fond of joining these words. cf. ad Fam. VI. 10. 2, etc. Z.

*fore*] sc. *hoc, ne sufficiatur consul:* they could stop the holding of an election by their *veto*. H. D. Iunius Silanus was the other consul elect.

83. *mihi*] i. e. for any one of your friends. cf. the mention of *sui* and *amici* in the parallel passages, de Fin. II. § 45, de Off. I. § 22. So we retain the reading of the best MSS *non mihi, non tibi, sed patriae.* Z. But I prefer to read as above with the large majority of MSS, and H.'s em *videris* for *videre quid agatur, and I* see that T. takes the same view.

*cupidum*] 'greedy,' 'passionate,' after honour or money. cf. pro Fonteio § 22, *cupidos moderatis anteferre*. almost = ambitious, as in Hor. A. P. 165, *sublimis cupidusque*.

*fortuna*] cf. on § 79. Murena is a well-to-do man, and hence not *rerum novarum cupidus*.

*scientia*] so in § 34, *summi consilii*.

*animo et usu*] spirit backed by experience.

*quod velis*] = *quodvis*.

xxxix. *quamquam*] 'still' (though things look so black). Here Cicero passes on to the *epilogus* or *peroratio* of the speech.

*in vobis sita est*] = *penes vos est*. T.

*tenetis*] sustain. cf. *tenebatur*, § 58, note.

*consilio*] = bench of judges. Cati-

num, quos secum eduxit, hac de re posset iudicare, condemnaret L. Murenam, si interficere posset, occideret. petunt enim rationes illius, ut orbetur auxilio res publica, ut minuatur contra suum furorem imperatorum copia, ut maior facultas tribunis plebis detur, depulso adversario, seditionis ac discordiae concitandae. idemne igitur delecti amplissimis ex ordinibus honestissimi atque sapientissimi viri iudicabunt, quod ille importunissimus gladiator, hostis rei publicae iudicaret? mihi 84
credite, iudices, in hac causa non solum de L. Murenae, verum etiam de vestra salute sententiam feretis. in discrimen extremum venimus: nihil est iam, unde nos reficiamus aut ubi lapsi resistamus. non solum minuenda non sunt auxilia, quae habemus, sed etiam nova, si fieri possit, comparanda. hostis est enim non apud Anienem, quod bello Punico gravissimum visum est, sed in urbe, in foro—di immortales! sine gemitu hoc dici non potest—non nemo etiam in illo sacrario rei publicae, in ipsa, inquam, curia non nemo hostis est. di faxint, ut meus collega, vir fortissimus, hoc Catilinae nefarium latrocinium armatus opprimat, ego togatus, vobis bonisque omnibus adiutoribus, hoc, quod conceptum res publica periculum parturit, consilio discutiam et comprimam! sed quid tandem 85

line is represented (*fingitur*) as sitting in judgment on Murena with his fellow-conspirators for jury.

*si posset* etc.] This is quoted by Quint. v. x. 99 as an instance of *argumenta ducta a fictione, quod Graeci καθ' ὑπόθεσιν vocant.*

*rationes*] 'his plans.' cf. on § 46; almost = 'interest.'

*auxilio*] sc. *consulari*, § 82.

*imperatorum*] such as Murena. cf. on *scientia* sup.

*tribunis*] such as Metellus. cf. on § 81.

*importunissimus*] 'that most savage of cut-throats.' So in Catil. II. § 12, *importunissimum hostem.* inf. § 85.

*gladiator*] cf. § 50.

*hostis*] 'public enemy.' Emphatic, as in Catil. III. § 17.

84. *resistamus*] 'regain our footing.' A rare use. Ennius has *post ex fluvio fortuna resistet.*

*apud Anienem*] cf. Liv. XXVI. 10. Polybius IX. 5. 9, Mommsen, bk. III. c. 6. This was in 211 B.C., the distance 3 or 4 miles from Rome.

*non nemo*] 'one or two.' Certain persons are meant, but not named. cf. Madv. § 493 c. obs.

*sacrario*] 'shrine' of the people's interests.

*faxint*] the usual form in solemn wishes. cf. Roby, Lat. Gr. II. 20. § 620.

*latrocinium*] 'band of brigands.' cf. in Catil. I. § 31, *quodsi ex tanto latrocinio iste unus tolletur.*

*togatus*] in a civilian capacity, opp. to *armatus.*

*parturit*] cf. Phil. II. § 118, *ut aliquando dolor populi Romani pariat, quod iamdiu parturit.*

fiet, si haec elapsa de manibus nostris in eum annum, qui consequitur, redundarint? unus si erit consul et is non in administrando bello, sed in sufficiendo collega occupatus, haec iam qui impedituri sunt? * * * * illa pestis immanis, importuna Catilinae prorumpet, quae * * * minatur: in agros suburbanos repente advolabit; versabitur in rostris furor, in curia timor, in foro coniuratio, in campo exercitus, in agris vastitas; omni autem in sede ac loco ferrum flammamque metuemus, quae iam diu comparantur. eadem ista omnia, si ornata suis praesidiis erit res publica, facile et magistratuum consiliis et privatorum diligentia comprimentur.

86 XL. quae cum ita sint, iudices, primum rei publicae causa, qua nulla res cuiquam potior debet esse, vos pro mea summa et vobis cognita in re publica diligentia moneo, pro auctoritate consulari hortor, pro magnitudine periculi obtestor, ut otio, ut paci, ut saluti, ut vitae vestrae et ceterorum civium consulatis: deinde ego idem vos defensoris et amici officio adductus oro atque obsecro, iudices, ut ne hominis miseri et cum corporis morbo tum animi dolore confecti, L. Murenae, recentem gratulationem nova lamentatione obruatis. modo maximo beneficio populi Romani ornatus fortunatus videbatur, quod primus in familiam veterem, primus in municipium antiquis-

85. *redundarint*] run over into. for metaphor cf. Nägelsb. Stil. 132. 1.

*collega*] to take Murena's place.

*sunt*] so MS. Lag. 9, and this makes sense, though I admit it savours of a correction. After this there is a lacuna in the MSS., and the following words to *minatur* are also imperfect.

*immanis*] After this word H. very plausibly conjectures that *manus* has been lost. cf. pro Sest. § 42, *Catilinae importunam manum.*

*prorumpet*] sc. from the gorges of the Apennines. H.

*vastitas*] 'desolation,' as usual.

*suis*] 'with its proper means of defence.' T.

xl. 86. *moneo—hortor—obtestor*] climax. 'warn'—'urge'—'adjure.'

*ut*] expresses the object in general, *ne* the negation. Madv. § 456.

*obruatis*] 'do not drown the sounds of congratulation still fresh in his ears with the sudden voice of woe.' *beneficio.* § 3.

*familiam veterem*] cf. §§ 15, 53.

*municipium*] Lanuvium, § 90. It was an ancient Latin town among the Alban hills. No distinction was drawn between these old cantonal centres and the *coloniae Latinae*, save that now and then the latter are spoken of as *coloniae* to mark their origin. By the Julian law of B.C. 90 all alike were offered the citizenship. But Lanuvium was conquered in B.C. 338, and received the *civitas sine suffragio.* The people became *municipes* in relation to Rome, i. e., they bore burdens, such

simum consulatum attulisset: nunc idem squalore et sordibus * * confectus, lacrimis ac maerore perditus, vester est supplex, iudices, vestram fidem obtestatur, *vestram* misericordiam implorat, vestram potestatem ac vestras opes intuetur. nolite, 87
per deos immortales! iudices, hac eum re, qua se honestiorem fore putavit, etiam ceteris ante partis honestatibus atque omni dignitate fortunaque privare. atque ita vos si Murena, iudices, orat atque obsecrat, si iniuste neminem laesit, si nullius aures voluntatemve violavit, si nemini, ut levissime dicam, odio nec domi nec militiae fuit, sit apud vos modestiae locus, sit demissis perfugium, sit auxilium pudori. misericordiam spoliatio consulatus magnam habere debet, iudices; una enim eripiuntur cum consulatu omnia. invidiam vero his temporibus habere consulatus ipse nullam potest; obicitur enim contionibus seditiosorum, insidiis coniuratorum, telis Catilinae, ad omne denique periculum atque ad omnem invidiam solus opponitur. quare qui invidendum Murenae aut cuiquam 88
nostrum sit in hoc praeclaro consulatu, non video, iudices:

as army-service and the *tributum*, but had no vote. cf. Mommsen, bk. II. c. 5. At a later time, before the Julian law, they had received the full citizenship. cf. § 42.

*squalore et sordibus*] cf. pro Cluent. § 18, and Prof. Ramsay's note. Here follows a small lacuna.

*vester supplex*] so pro Cluent. § 200, *supplicem vestrum*. The reading of MS. Lag. 9 *vestram supplex, iudices, vestram*...is very tempting. Z. adopts it.

87. *hac eum re.....ceteris*] The double ablative has an awkward air, but the same may be said of § 23 (see note); the real difficulty is that *hac re*=his desire of the consulship, *qua*=his attainment of it. T. well cf. Tusc. D. II. § 43, *quod ergo et postulatur a fortibus et laudatur, quum fit, id aut extimescere veniens aut non ferre praesens nonne turpe est?* where *quod=toleranter dolorem pati*, but *id=dolorem*.

*honestatibus*] *honestas* is the quality imparted by *honores*, as we say 'distinction.' The plural in this sense seems to occur here only.

*ita*] sc. 'as I describe him,' *lacrimis ac dolore perditus* etc.

*si*] 'if, as is the fact,'=εἴπερ, as often, especially, as Z. remarks, in perorations. cf. § 90, pro Cluent. § 200, pro Rosc. Am. § 153, pro Balbo § 64.

*neminem ... nullius ... nemini*] a good instance of Latin usage.

*levissime*] so in Catil. III. § 17, pro Sest. § 145. 'To make the least of it.'

*demissis*] so with Z. and MS. Lag. 9 I prefer to read, leaving out the *hominibus* which follows in most MSS. The conj. *demissioni animi* seems to me clever but superfluous.

*pudori*] cf. §§ 30, 64.

*habere*] cf. on § 68.

*obicitur*] 'is exposed to'..., 'at the mercy of'...cf. § 82.

*opponitur*] 'is set to meet.' cf. the play on this word in Catull. 26.

88. *praeclaro*] 'this glorious'... ironical, cf. § 22.

quae vero miseranda sunt, ea et mihi ante oculos versantur et vos videre et perspicere potestis. XLI. si—quod Iuppiter omen avertat!—hunc vestris sententiis adflixeritis, quo se miser vertet? domumne? ut eam imaginem clarissimi viri, parentis sui, quam paucis ante diebus laureatam in sua gratulatione conspexit, eandem deformatam ignominia lugentemque videat? an ad matrem? quae misera, modo consulem osculata filium suum, nunc cruciatur et sollicita est, ne eundem
89 paulo post spoliatum omni dignitate conspiciat? sed quid ego matrem eius aut domum appello, quem nova poena legis et domo et parente et omnium suorum consuetudine conspectuque privat? ibit igitur in exilium miser. quo? ad orientisne partes, in quibus annos multos legatus fuit, exercitus duxit, res maximas gessit? at habet magnum dolorem, unde cum honore decesseris, eodem cum ignominia reverti. an se in contrariam partem terrarum abdet, ut Gallia transalpina, quem nuper summo cum imperio libentissime viderit, eundem lugentem, maerentem, exulem videat? in ea porro provincia quo animo C. Murenam fratrem suum aspiciet! qui huius dolor! qui illius maeror erit! quae utriusque lamentatio! quanta autem perturbatio fortunae atque sermonis, cum, quibus in locis paucis ante diebus factum esse consulem Murenam

*miseranda sunt*] sc. *in hoc consulatu.*

xli. *omen*] contained in the unlucky word *adflixeritis.*

*quo...conspiciat?*] M. well remarks that this is probably imitated from the words of G. Gracchus, quoted in de Or. III. § 214, *quo me miser conferam? quo vertam? in Capitoliumne? at fratris sanguine madet. an domum? matremne ut miseram lamentantem videam et abiectam?* also loosely quoted in Quint. XI. iii. 115. cf. also Eur. Med. 502—5 and the translation in de Or. III. § 217.

*laureatam*] His father was a *vir triumphalis*, and the wreath on his bust would be renewed in order to receive the newly-elected consul home with rejoicing.

*ignominia*] properly of punishment affecting civil or military position, particularly of the *nota censoria.* Here of the effect of condemnation under the *lex Tullia* (cf. on § 46), and rhetorically made to extend to the father's bust.

89. *appello*] 'name,' 'speak of.' cf. pro Sest. § 108.

*nova poena*] of the *lex Tullia.* cf. on § 46.

*habet*] cf. on § 68.

*summo cum imperio*] as propraetor. cf. § 42. He had left his brother Gaius there in charge as *legatus* when he came to Rome to seek the consulship. Sall. Cat. 42.

*perturbatio*] turning topsy-turvy. A strong term, like many in this peroration.

*sermonis*] people will not know what to call him, and will doubt whether they know anyone's correct style after so sudden a change.

nuntii litteraeque celebrarint et unde hospites atque amici gratulatum Romam concurrerint, repente existet ipse nuntius suae calamitatis! quae si acerba, si misera, si luctuosa sunt, 90
si alienissima a mansuetudine et misericordia vestra, iudices, conservate populi Romani beneficium, reddite rei publicae consulem: date hoc ipsius pudori, date patri mortuo, date generi et familiae, date etiam Lanuvio, municipio honestissimo, quod in hac tota causa frequens maestumque vidistis. nolite a sacris patriis Iunonis Sospitae, cui omnes consules facere necesse est, domesticum et suum consulem potissimum avellere. quem ego vobis, si quid habet aut momenti commendatio aut auctoritatis confirmatio mea, consul consulem, iudices, ita commendo, ut cupidissimum otii, studiosissimum bonorum, acerrimum contra seditionem, fortissimum in bello, inimicissimum huic coniurationi, quae nunc rem publicam labefactat, futurum esse promittam et spondeam.

90. *pudori*] cf. on §§ 30, 64.

*quod...frequens*] i. e. crowds of supporters from Lanuvium. *tota*, sc. all the while this trial has been going on.

*sacris*] cf. Liv. VIII. 14, *Lanuvinis civitas data sacraque sua reddita cum eo ut aedes lucusque Sospitae Iunonis communis Lanuvinis municipibus cum populo Romano esset.*

*facere*] 'sacrifice,' as in ad Att. I. 13. 3. cf. Verg. Ecl. III. 77.

*suum*] as a native of the town to which the worship properly belonged.

*momenti*] sc. if it can turn the scale so as to get a favourable verdict. cf. in Vatin. § 9, *id est maximi momenti et ponderis.*

## *Variations from Halm's Text,* 1868.

§ 2. consul eum. consulem. H. quem. qui. H.

§ 3. a me uno. una. MSS. una *cum consulatu.* H (ex coni.). his. iis. H.

§ 4. communis salutis. salutis communis. H.

§ 5. abrogarim. abrogarem. H.

§ 6. negat. at negat. H.

§ 8. favi. adfui. H. petis. petas. H.

quae si causa non esset hominis, tamen honoris eius...

...esset, tamen vel dignitas hominis vel honoris eius .....H.

nemini, sic existimo, quibus ceperis, ea, cum adeptus sis, deponere, esse....

nemini, quibus laboribus ea ceperis, eos, cum adeptus sis, deponere, esset...H.

§ 10. esses. esset. H.

§ 13. aliquo convicio. aliquod convicium. H. quamquam vitiosa sunt. quaeque v. s. H.

§ 14. omnino. iudicio sic a me ...dictum in vita proferatur.

omnino, iudices. sic a me...dictum proferatur. H.

§ 16. generis sui. generis sua. H (ex. coni.).

§ 19. vocatur, ab utroque dissimillima ratione tractatum.

vocatur, ab utroque dissimillima ratione transactum est. H (ex coni.).

§ 20. loquar. loquor. H. tantum laudis. tantum *huic* laudis. H (ex coni.). impertit. impertiit. H (ex coni.).

§ 21. pari. parem. H (ex coni.).

apud exercitum mihi fueris, inquit, tot annos, forum non attigeris?

apud exercitum mihi fueris? inquit, tot annis forum non attigeris? H.

tam diu, ut. tam diu, et. H (ex coni.). expedit. expediit. H (ex coni.). idem. item. H (ex coni.).

§ 22. qui potes dubitare. qui potest dubitari. H.

rei militaris [quam iuris civilis] gloria?

rei militaris quam iuris civilis gloria? H.

§ 23. didicisti. dilexisti. H.

§ 24. in his. in iis. H. dicendi facultas. facultas. H.

§ 25. petebatur. petebantur. H. ediscendis. discendis. H. causis. capsis. H.

§ 27. corrupta et. corrupta ac. H. putarent. putarunt. H.

§ 28. aliquando. aliquamdiu. H.

§ 29. nonnullos. apud nos. H.

§ 30. aliquis motu. aliquo motu. H. geritur res [publica]. geritur res. H.

§ 31. gratissimae. clarissimae. H.

§ 32. mihi statuam. mihi statuo. H. numquam cum Scipione esset. nunquam esset. H. hunc regem nimirum antepones. hunc antepones. H. pugnae certe non rudis. pugnax et acer et non rudis. H. bello invectum. bellum invexisset. H. ipse conatu. spe conatuque. H.

§ 34. Luculli. L. Lucullus. H.

§ 38. voluntas militum cum per se... | voluntas militum? quae cum per se ...H.

sumpsit; ipse cum... sumpsit ipse, cum...H. praerogativae. (sic et H. ed. 1872). praerogativum. H.

§ 40. L. Otho, [vir fortis,]. L. Otho, vir fortis. H.

§ 42. ipse autem. ipsa autem. H (ex coni.).

interea Romae scilicet amicis—(sic et H. ed. 1872). | interea amicis. H.

§ 43. Servius. [Servius]. H. consulatum. [consulatum] H. his rebus. in iis rebus. H.

§ 45. aut desertam. ut desertam. H.

§ 46. existimasti. si existimasti. H. facere posse: vehementer. facere posse, vehementer. H. haberet. haberes. H.

§ 47. proderant. proderat. H. prorogationem. perrogationem. H.

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§ 57. amicis. amicus. H.

§ 58. possit. posset. H.

§ 63. esse moderatas (sic et H. ed. 1872). esse moderandas. H (ex coni.).

§ 64. seposuisses. si dixisses. H. (si posuisses. H. 1872).

§ 65. isti ipsi mihi. isti mihi. H.

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§ 83. hoc tempus. tempus hoc. H.

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§ 87. hac eum re. hac eum cum re. H. ita vos si Murena. ita vos L. Murena. H. fuit, sit..... fuit, ut sit..... H. demissis. demissioni animi. H.

# APPENDIX.

## A. *On the spirit of Roman trials.*

Prof. Ramsay well remarks, 'the moral feeling which prevailed in a Roman court of justice was entirely at variance with the principles which rule our own.' It may be well to draw out shortly some of the main differences.

1. There was no class of professional advocates, taking fees and living by their profession. Any citizen could come forward to accuse or defend any other: and, as a high reputation for able pleading helped a man in rising to official distinction, many did so (pro Mur. §§ 8, 24). It was also a great advantage to have the power of addressing assemblies with effect (pro Mur. § 24). This naturally led to the introduction of irrelevant matter into speeches in court (see the *partitio* § 11, where the irrelevance of two of the heads is manifest), particularly allusions to the situation of affairs at the moment, and the probable effect on them of the condemnation or acquittal of the accused (see Intr. C).

2. It not unfrequently happened that a corrupt collusion existed between the accuser and accused. For a sum of money or some other consideration the former would play into the hands of the latter, suppressing evidence and making only a feeble attack upon him. This was called *praevaricatio* (pro Cluent. §§ 58, 87, div. in Caecil. § 58, etc.), and was properly applied only to the accuser in a public—that is, a criminal—trial. Hence the chief security for an honest prosecution lay in the personal hostility of the *accusator* to the *reus*. Numberless allusions shew this. In div. in Caecil. § 12 *G. Verres, cui te inimicum esse simulas* (said to the would-be *praevaricator* Caecilius), pro Cluent. § 29 *auditis non ab inimico* opposed to *audiebant ab accusatoribus*, § 42 *erat huic inimicus Oppianicus: erat: sed tamen erat vitricus* (sc. he would have shewn mercy even to an *inimicus*, on the ground of family connexion); and generally the relations of counsel to clients rested on grounds of personal feeling, div. in Caecil. § 23 *magnus ille defensor et*

*amicus eius* (cf. pro Mur. §§ 5, 7, 8, 9, 10, 86), pro Mur. § 2 *inimicorum impetus* (cf. the remarkable plea in § 56).

3. Great weight was attached to the personal influence of the pleaders (pro Mur. §§ 58, 59). This naturally followed from what has been stated above.

4. There was no professionally trained judge to sift the evidence in a summing-up. The praetors were changed from year to year, and merely acted as chairmen of the Courts. With such presidents, no wonder that irrelevant considerations often were the most powerful in determining a verdict.

5. It was customary for the *reus* to wear old and filthy garments in sign of mourning to excite pity (pro Mur. §§ 42, 86, pro Cluent. §§ 18, 192, etc.). Passionate appeals to the jury, either without allusion to the charge or assuming a client's innocence, were also common in speeches (see the perorations of the two just cited).

6. Bribery (*corrumpere iudicium*) was common (see for instance pro Cluent. §§ 64 foll.). In truth it was not guarded against with proper care. The jury were accessible during the trial to the agents of either party, instead of being kept away by themselves.

It will thus be seen how differently from our English trials a criminal prosecution was conducted at Rome. We are not dealing with the Athenian courts; but one quotation will perhaps be interesting. In Dem. de Cor. p. 230 § 15 we read *τοῦ μὲν ἀγῶνος ὅλου τὴν πρὸς ἐμὲ ἔχθραν προῖσταται*, § 16 *τῆς ἡμετέρας ἔχθρας ἡμᾶς ἐφ' ἡμῶν αὐτῶν δίκαιον ἦν τὸν ἐξετασμὸν ποιεῖσθαι.*

## B. *Leges iudiciariae.*

Up to the year 123 B.C. the *iudices*, whether single jurymen or a number empanelled to serve on the permanent or extraordinary commissions (*quaestiones perpetuae* or *extraordinariae*) were taken exclusively from the Senate. In that year the tribune Gaius Gracchus transferred the *iudicia* to the *equites*. This *lex Sempronia* was confirmed and strengthened by the *lex Servilia repetundarum* of Gaius Servilius Glaucia, probably in B.C. 100. But the *lex Cornelia* of Sulla in B.C. 80 again installed the senators as *iudices*, an arrangement which lasted until B.C. 70. In that year the *lex Aurelia* of Lucius Aurelius Cotta introduced a new system. The juries were for the future to consist of three *decuriae*, one of senators and two of men of equestrian rating; one of these two

to be formed of men who had served as *tribuni aerarii*. This last arrangement was in force at the time of Murena's trial. [See Mommsen, book IV. cc. 3, 6, 10, book V. c. 3.]

## C. *On* § 62, *dixisti quippiam.*

Here the MSS have *dixisti quippe iam*, the only variant being Lag. 9 which has *quicpe iam*. All editors accept the correction of Manutius, *quippiam*. What I wish to point out is that this restoration of the passage, though plausible, is not necessary. In § 74 we find *ergo ad cenam petitionis causa si quis vocat, condemnetur.* '*quippe*,' *inquit;* 'tu mihi'..., de Fin. IV § 7 *ista ipsa quae tu breviter, regem dictatorem divitem solum esse sapientem, a te quidem apte ac rotunde; quippe; habes enim a rhetoribus*, V § 84 *quem hunc appellas, Zeno?* '*beatum*,' *inquit. etiam beatissimum?* '*quippe*,' *inquiet*, de Or. II § 218 *leve nomen habet utraque res. quippe; leve enim est totum hoc risum movere*, see also pro Caec. § 55, on which Jordan adds de Rep. I § 61, ad Att. V. 15. 1. Madvig on de Fin. V § 84 says '*quippe* is not used ironically by Zeno, as though he were making fun of himself; it gives a strong affirmative answer, with a sort of wonder at any doubt having been possible.' I believe then that in the present passage we might retain the MSS reading, which it must be granted is a strange corruption for *quippiam*, had that been in the original.

*dixisti. quippe; iam fixum et statutum est*, 'you have said.' 'to be sure I have; henceforth 'tis fastened and established for ever.'

## D. *On* § 75, *lectuli Punicani.*

The received interpretation of this passage is, that part of Tubero's bad taste was shewn in providing mean couches for the guests to recline upon at the banquet. I wish to trace up the authorities for this view and against it.

1. Valerius Maximus, VII. 5, tells the same story, almost word for word after Cicero; but in pointing out the offence given to the Roman people, he says not a word about the *lectuli* as mean, or as having been in any way improper; on the contrary, he says that the people punished the public scandal of such an entertainment by voting against Tubero at the praetorian election, because it

thought *non unius convivii numerum sed totam se in illis pelliculis iacuisse*, thus laying the whole stress on the skins.

2. Seneca, Ep. 96 (95) § 72, says, *proderit dicere Tuberonis ligneos lectos, cum in publicum sternerent, haedinasque pro stragulis pelles, et ante ipsius Iovis cellam adposita conviviis vasa fictilia.* He evidently uses the term *ligneos* in contempt.

3. Isidorus, Orig. XX. 11. 3, says, *lectuli Punicani, parvi et humiles et lignei; nam huiusmodi lecti ex Carthagine primum advecti sunt. humiles* seems=not raised high above the ground, perhaps even 'unpretending.'

4. Pliny, Nat. Hist. XXXIII. 144, tell us that these couches were inlaid with precious metals. One Carvilius Pollio was the first to put silver upon dinner-couches; he, however, did not go so far as to overlay them or make them look as splendid as Delian furniture; he only did them in the Punic style; he applied gold also in the same style; and shortly afterwards the silvered couches were made on the Delian plan. All this ostentation, he adds, was expiated by the Sullan civil war. The 'Punic style' must mean inlaid work. We see also that the date of Carvilius Pollio falls before B.C. 88; how much, cannot be inferred.

5. Livy, XXXIX. 6, in speaking of the triumph of Gn. Manlius Vulso (B.C. 187) over the Galatians, goes on to remark that it was the Asiatic army that first brought foreign luxury to Rome. As an instance of this he adduces the introduction of couches with bronze feet (*lecti aerati*). Cicero also, II in Verr. IV. § 60, speaks of the same articles as having been extorted from people in Sicily by Verres; and the context makes it certain that he means them for a mark of luxury.

6. *sternere* does not imply the providing of the couches themselves. cf. II in Verr. IV. § 58, *lectos optime stratos*, Tusc. D. V. § 61, *in aureo lecto strato pulcherrimo textili stragulo*, and many passages in Plautus.

Now, whatever the passage of Isidorus may mean, it is of little or no weight. The passage of Seneca proves that in the opinion of the writer these couches were common and coarse, as being made of wood. But Seneca, though a Stoic in theory, was notoriously luxurious, and would naturally think lightly of couches which might for all that have been magnificent in the days of Tubero (who was a contemporary of the Gracchi). Pliny shews that the Punic couches were of considerable value, though not extravagantly rich if compared with others used in his own day. In fact at the date

of the story (B.C. 129) any metallic ornamentation of a couch was rare and costly. It is not, moreover, clear that Tubero provided the couches: and from the language used it is more likely that he did not, for (a) *stravit pelliculis haedinis lectulos Punicanos* savours strongly of a purposed juxtaposition for the sake of contrast, and (b) he did not provide the tables, or they would have been coarse and rough also, and must have been mentioned; again (c) *stravit* requires an acc. case, *exposuit* leaves the 'tables' to be implied; unless then it can be shewn that the tables were rough and provided by Tubero, I maintain that the presumption is that he did not provide the couches. Fabius provided the tables and couches (a great many would be wanted, and no doubt some had to be hired or borrowed), not splendid, but elegant; Tubero put dirty skins on the couches and common Samian ware on the tables, and so I think the story is understood by Valerius Maximus. Lastly, what says Cicero himself? *his haedinis pelliculis praetura deiectus est.*

The diminutive *lectulos* seems not to imply contempt, but the employment of ordinary sofas (see pictures in Rich, Dict. Ant.) to make up the large number of couches wanted on this occasion.

## E. Gellius xx. 10. (Ed. Hertz).

Ex iure manum consertum uerba sunt ex antiquis actionibus, quae, cum lege agitur et uindiciae contenduntur, dici nunc quoque apud praetorem solent. rogaui ego Romae grammaticum, celebri hominem fama et multo nomine, quid haec uerba essent? tum ille me despiciens: 'aut erras,' inquit, 'adulescens, aut ludis; rem enim doceo grammaticam, non ius respondeo: si quid igitur ex Vergilio, Plauto, Ennio quaerere habes, quaeras licet.'

'ex Ennio ergo,' inquam, 'est, magister, quod quaero. Ennius enim uerbis hisce usus est.' cumque ille demiratus aliena haec esse a poetis et haud usquam inueniri in carminibus Ennii diceret, tum ego hos uersus ex octauo annali absentes* dixi, nam forte eos tamquam insigniter praeter alios factos memineram:

pellitur e medio sapientia, ui geritur res;
spernitur orator bonus, horridus miles amatur.
haut doctis dictis certantes nec maledictis,
miscent inter sese inimicitias agitantes.
non ex iure manu[m] consertum, sed magis ferro
rem repetunt regnumque petunt, uadunt solida ui.

cum hos ego uersus Ennianos dixissem: 'credo,' inquit grammaticus, 'iam tibi.' sed tu uelim credas mihi, Quintum Ennium didicisse hoc non ex poeticae literis, set ex iuris aliquo perito. eas igitur tu quoque,' inquit, 'et discas, unde Ennius didicit.'

usus consilio sum magistri, quod docere ipse debuerat, a quo discerem, praetermonstrantis. itaque id, quod ex iureconsultis quodque ex libris eorum didici, inferendum his conmentariis existimaui, quoniam in medio rerum et hominum uitam qui colunt, ignorare non oportet uerba actionum ciuilium celebriora. ('manum conserere.') nam de qua re disceptatur in iure [in re] praesenti, siue ager siue quid aliud est, cum aduersario simul manu prendere et in ea re [soll]emnibus uerbis uindicare, id est 'uindicia.' correptio manus in re atque in loco praesenti apud praetorem ex duodecim tabulis fiebat, in quibus ita scriptum est: si qui in iure manum conserunt. sed postquam praetores propagatis Italiae finibus, datis iurisdictioni(bu)s negotiis occupati, p[rof]icisci uindiciarum dicendarum causa [ad] longinquas res grauabantur, institutum est contra duodecim tabulas tacito [con]sensu, ut litigantes non in iure apud praetorem manum consererent, sed 'ex iure manum consertum' uocarent, id est alter alterum ex iure ad conserendam manum in rem, de qua ageretur, uocaret atque profecti simul in agrum, de quo litigabatur, terrae aliquid ex eo, uti unam glebam, in ius in urbem ad praetorem deferrent et in ea gleba, tamquam in toto agro, uindicarent. idcirco Ennius significare uolens (bellum), non, ut ad praetorem solitum est, legitimis actionibus neque ex iure manum consertum, sed bello ferroque et uera ui atque solida [.....]; quod uidetur dixisse, conferens uim illam ciuilem et festucariam, quae uerbo diceretur, non quae manu fieret, cum ui bellica et cruenta.

In l. 11. *absentes* = 'from memory,' 'without book.'

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